

UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE-HUNDREDTH CONGRESS
OF THE UNITED STATES OF AMERICA

1988

AND

PROCLAMATIONS

VOLUME 102

IN FIVE PARTS

PART 2

PUBLIC LAWS 100-407 THROUGH 100-456



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SECOND SESSION, 1988

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Public Law 100-407
100th Congress

An Act

Aug. 19, 1988
[S. 2561]

Technology-
Related
Assistance for
Individuals With
Disabilities Act
of 1988.
29 USC 2201
note.
29 USC 2201.

To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.

(2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.

(3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabilities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology serv-

ices that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of—

(A) resources to pay for such devices and services;

(B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;

(C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

(E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) **PURPOSES.**—The purposes of this Act are as follows:

(1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

(A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;

(B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

(C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;

(F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and

(G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

(A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;

(B) the identification of Federal policies that impede such payment; and

(C) the elimination of inappropriate barriers to such payment.

(3) To enhance the ability of the Federal Government to provide the States with—

(A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

(B) funding for model demonstration and innovation projects.

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SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) **ASSISTIVE TECHNOLOGY DEVICE.**—The term “assistive technology device” means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(2) **ASSISTIVE TECHNOLOGY SERVICE.**—The term “assistive technology service” means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) **INDIVIDUAL WITH DISABILITIES.**—The term “individual with disabilities” means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given such term in section 435(b) of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

(6) **STATE.**—Except as otherwise provided, the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) **TECHNOLOGY-RELATED ASSISTANCE.**—The term “technology-related assistance” means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) **UNDERSERVED GROUP.**—The term “underserved group” means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race, sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED.

29 USC 2211.

(a) **GRANTS TO STATES.**—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) **FUNCTIONS OF PROGRAMS.**—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

(1) **IDENTIFICATION AND NEEDS ASSESSMENT.**—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an

Contracts.

ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data.

(2) **IDENTIFICATION AND COORDINATION OF RESOURCES.**—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements.

(3) **PROVISION OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.**—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) **DISSEMINATION OF INFORMATION.**—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) **TRAINING AND TECHNICAL ASSISTANCE.**—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) **PUBLIC AWARENESS PROGRAM.**—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) **ASSISTANCE TO STATEWIDE AND COMMUNITY-BASED ORGANIZATIONS.**—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) **PARTNERSHIPS AND COOPERATIVE INITIATIVES.**—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) **QUALIFICATIONS OF STAFF.**—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) **PROGRAM DATA.**—Compilation and evaluation of appropriate data relating to the program.

(11) **PROCEDURES FOR INVOLVEMENT OF CONCERNED INDIVIDUALS.**—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions

relating to such assistive technology devices and assistive technology services.

(12) **OTHER FUNCTIONS.**—Any other functions the Secretary considers appropriate.

(c) **AUTHORIZED ACTIVITIES.**—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) **MODEL DELIVERY SYSTEMS.**—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) **STATEWIDE NEEDS ASSESSMENT.**—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided;

(C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

Loans.

(G) a description of—

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

Insurance.

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) **SUPPORT GROUPS.**—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) **PUBLIC AWARENESS PROGRAM.**—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) **TRAINING AND TECHNICAL ASSISTANCE.**—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) **ACCESS TO TECHNOLOGY-RELATED INFORMATION.**—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries.

Records.

(7) **INTERSTATE AGREEMENTS.**—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) **OTHER ACTIVITIES.**—The State may utilize amounts made available under grants made under this title for any other

activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

29 USC 2212.

SEC. 102. DEVELOPMENT GRANTS.

(a) **GENERAL AUTHORITY.**—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) **NUMBER OF GRANTS TO BE AWARDED.**—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

(1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;

(2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and

(3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) **AMOUNTS OF GRANTS.**—

(1) **GRANTS TO STATES.**—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than \$500,000 and not more than \$1,000,000; and

(B) for the third year of the grant period, an amount that is not less than \$500,000 and not more than \$1,500,000.

(2) **GRANTS TO TERRITORIES.**—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than \$150,000.

(3) **CALCULATION OF AMOUNTS.**—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) **PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.**—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) **DEFINITIONS.**—For purposes of this subsection:

(A) The term “State” does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term “territory” means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) **PRIORITIES FOR DISTRIBUTION.**—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

- (1) is geographically equitable; and
- (2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) **APPLICATIONS.**—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) **DESIGNATION OF RESPONSIBLE ENTITY.**—The designation by the Governor of the office, agency, entity, or individual responsible for—

- (A) preparing the application;
- (B) administering and supervising the use of amounts made available under the grant;
- (C) planning and developing the statewide program of technology-related assistance;
- (D) coordination between public and private agencies, including the entering into of interagency agreements;
- (E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and
- (F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) **AGENCY INVOLVEMENT.**—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) **PUBLIC INVOLVEMENT.**—A description of the nature and extent of involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) **PRELIMINARY NEEDS ASSESSMENT.**—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) **STATE RESOURCES.**—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) **GOALS, OBJECTIVES, FUNCTIONS, ACTIVITIES, AND OUTCOMES.**—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).

(7) **INFORMATION AND EVALUATIONS.**—A description of—

(A) procedures used for compiling information; and

(B) procedures that will be used to conduct evaluations.

(8) **STATE POLICIES WITH RESPECT TO CONTRACTS AND AGREEMENTS.**—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) **DISTRIBUTION PROCEDURE.**—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) **COMPLIANCE WITH ACT.**—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) **SUPPLEMENT OTHER FUNDS.**—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) **CONTROL OF FUNDS AND PROPERTY.**—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and

(B) a public agency or an individual with disabilities shall—

(i) hold title to property purchased with such amounts; and

(ii) administer such property.

(13) **REPORTS.**—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) **COMMINGLING OF FUNDS.**—An assurance that amounts received under the grant will not be commingled with State or other funds.

(15) **FISCAL CONTROL AND ACCOUNTING PROCEDURES.**—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) **AVAILABILITY OF INFORMATION.**—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such individuals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) **OTHER INFORMATION.**—Such other information and assurances as the Secretary may reasonably require.

SEC. 103. EXTENSION GRANTS.

29 USC 2213.

(a) **GENERAL AUTHORITY.**—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) **AMOUNTS OF GRANTS.**—

(1) **IN GENERAL.**—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than \$500,000 and not more than \$1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than \$150,000.

(C) For purposes of this paragraph:

(i) The term “State” does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term “territory” means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) **CALCULATION OF AMOUNT.**—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section;

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) **PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.**—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States

that received grants under this section during the fiscal year preceding the fiscal year concerned.

(c) **APPLICATION.**—A State that desires to receive an extension of a grant under this section shall submit an application that contains the following:

(1) **NEEDS.**—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) **ACTIVITIES UNDER DEVELOPMENT GRANT.**—A description of the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) **PROGRESS.**—Documentation of the progress made toward the development grant toward development of a statewide program of technology-related assistance.

(4) **PUBLIC INVOLVEMENT.**—A description of State activities designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance;

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) **COMMENTS.**—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals and families by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) **OTHER INFORMATION AND ASSURANCES.**—The information and assurances described in section 102(e), except the primary needs assessment described in section 102(e)(4).

(7) **COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.**—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

29 USC 2214.

SEC. 104. PROGRESS REPORTS.

(a) **IN GENERAL.**—Each State that receives a grant under this section shall submit to the Secretary annually a report that describes

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers; and

(2) unanticipated problems encountered in carrying out the activities;

(3) activities planned to rectify such problems in the following year.

(b) **SPECIFIC REQUIREMENTS FOR REPORTS WITH RESPECT TO EXTENSION GRANTS.**—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

(1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;

(2) the types of environments in which assistance was provided under the grant; and

(3) how the information required by this subsection was derived.

SEC. 105. ADMINISTRATIVE PROVISIONS.

29 USC 2215.

(a) **REVIEW OF PARTICIPATING STATES.**—

(1) **IN GENERAL.**—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) **ONSITE VISITS.**—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business.

Wages.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(3) **MINIMUM REQUIREMENTS.**—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) **PROVISION OF INFORMATION.**—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) **CORRECTIVE ACTION PLAN.**—

(1) **IN GENERAL.**—Any State that fails to comply with requirements of this title shall be subject to a corrective plan.

(2) **PENALTIES.**—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program following year; or

(C) reduction in funding for the following year.

(3) **APPEALS PROCEDURES.**—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (c).

(c) **EFFECT ON OTHER ASSISTANCE.**—Nothing in this title shall be construed to permit the State or any Federal agency to discontinue medical or other assistance available or to alter eligibility under

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Education of the Handicapped Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

29 USC 2216.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title \$9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending on October 1, 1993.

(b) **RESERVATION.**—

(1) **PROVISION OF INFORMATION.**—The Secretary shall reserve 10 percent of funds appropriated in any fiscal year under subsection (a), or \$500,000, whichever is greater, for the purpose of providing States with information and technical assistance in respect to the development and implementation of coordinated and responsive statewide programs of technology-related assistance.

(2) **ONSITE VISITS.**—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purpose of conducting onsite visits as required by section 105(a)(2).

29 USC 2217.

SEC. 107. EVALUATION.

(a) **EVALUATION.**—

Contracts.

(1) **IN GENERAL.**—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) **REPORT TO CONGRESS.**—The Secretary shall report to Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) **PURPOSE.**—The purpose of the evaluation required by this section (a) shall be—

(1) to assess, through representative samples, the state of the effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individual disabilities; and

(2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.

(c) **INFORMATION SYSTEM.**—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—

- (1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);
- (2) public agencies;
- (3) fiscal resources committed to technology-related assistance for individuals with disabilities;
- (4) community-based organizations; and
- (5) employers.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

29 USC 2231.

(a) **STUDY AND RECOMMENDATIONS.**—The National Council on the Handicapped (hereafter in this part referred to as the “Council”), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

- (1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;
- (2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;
- (3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and
- (4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

(b) **ADVISORY COMMITTEE.**—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities,

and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—

(1) **FEDERAL AGENCIES.**—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) **USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.**—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, or private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to appropriate committees of the Congress—

(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a report of its study and investigation together with such recommendations, including specific proposals for legislation that the Council considers advisable.

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

29 USC 2241.

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 210, to establish and operate a national information and program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

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(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

29 USC 2242.

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

29 USC 2243.

SEC. 213. CONTENTS OF STUDY.

The study conducted under section 212 shall—

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze and describe management and cost projections for a national information and program referral network;

(8) evaluate operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information;

(F) forms of Federal oversight and independent evaluations that could be applied to a national information program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as government boards and advisory panels; and

(9) a timetable for implementation of various network options.

29 USC 2244.

SEC. 214. TIMETABLE FOR STUDY.

(a) **AWARD OF CONTRACT.**—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of this Act providing appropriations to carry out the study required by this Act, enter into any contract or cooperative agreement necessary for conducting such study.

Contracts.
Reports.

(b) **COMPLETION OF STUDY.**—Any contract or agreement entered into under subsection (a) shall require the study to be completed within 18 months. A report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement.

(c) **IMPLEMENTATION OF RECOMMENDATIONS.**—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

PART C—TRAINING AND PUBLIC AWARENESS PROJECTS

29 USC 2251.

SEC. 221. TRAINING.

Contracts.

(a) TECHNOLOGY TRAINING.—

(1) **GENERAL AUTHORITY.**—The Secretary shall enter into contracts or cooperative agreements with appropriate nonprofit organizations or for-profit entities for the purposes of—

(A) conducting training sessions; and

(B) developing, demonstrating, disseminating, evaluating curricula, materials, and methods used to assist individuals regarding the provision of technology-related assistance.

(2) **ELIGIBLE ACTIVITIES.**—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) TECHNOLOGY CAREERS.—

(1) **GENERAL AUTHORITY.**—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) **PRIORITY.**—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, and prepare personnel necessary to support the development

implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.

(3) **USES OF FUNDS.**—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

SEC. 222. PUBLIC AWARENESS PROJECTS.

Contracts.
29 USC 2252.

(a) **PROGRAM AUTHORIZED.**—The Secretary shall make grants to, or enter into contracts with, nonprofit and for-profit entities to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.

(b) **USES OF FUNDS.**—Amounts made available for grants and contracts under subsection (a) may be used to—

(1) develop a national media campaign (including public service time slots on radio and television);

(2) convene national or regional conferences;

(3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;

(4) encourage others to hold national or regional conferences;

(5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the use of technology-related assistance or the development of assistive technology devices; and

(6) other activities considered appropriate by the Secretary.

SEC. 223. PRIORITIES.

Federal
Register,
publication.
29 USC 2253.

(a) **IN GENERAL.**—Beginning in fiscal year 1991, the Secretary shall—

(1) establish priorities for activities carried out with assistance under this part;

(2) publish such priorities in the Federal Register for the purpose of receiving public comment; and

(3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.

(b) **EXPLANATION OF DETERMINATION OF PRIORITIES.**—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

PART D—DEMONSTRATION AND INNOVATION PROJECTS

SEC. 231. PROGRAM AUTHORIZED.

29 USC 2261.

(a) **DEMONSTRATION AND INNOVATION PROJECTS.**—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, nonprofit and for-profit entities to pay all or part of the cost of establishing or operating demonstration and innovation

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projects relating to technology-related assistance for individuals with disabilities.

(b) **ELIGIBLE ACTIVITIES.**—Amounts made available for purposes carrying out this part may be used for the following activities:

(1) **MODEL PROJECTS FOR DELIVERING ASSISTIVE TECHNOLOGY DEVICES AND SERVICES.**—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) **MODEL RESEARCH AND DEVELOPMENT PROJECTS.**—The conduct of applied research and development projects, including projects designed to—

(A) increase the availability of reliable and durable assistive technology devices that address unique, specific market demand, or complex technology-related needs of individuals with disabilities;

(B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;

(C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to individuals appropriate for such individuals; and

(D) facilitate effective and efficient technology transfer.

(3) **INCOME-CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.**—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not less than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that will provide loans—

(A) to individuals with disabilities who require technology-related assistance in order to maintain a level of functioning or to achieve a greater level of functioning in any major life activity; or

(B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) **REPORT TO CONGRESS ON EXTENSION OF DIRECT LOAN PROGRAM.**—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

PART E—AUTHORIZATION OF APPROPRIATIONS

29 USC 2271.

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) **GENERAL AUTHORITY.**—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) \$5,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and

MODEL DELIVERY PROJECTS.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) \$1,500,000 for fiscal year 1989 and such sums as may be necessary for each of fiscal years 1990, 1991, 1992, and 1993.

PRIORITIES.—

(1) **MODEL DELIVERY PROJECTS.**—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed \$6,000,000, the Secretary shall first make available, from such amounts, not less than \$500,000 for demonstration projects under section 231(b)(1).

(2) **OTHER TITLE II ACTIVITIES.**—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than \$250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

(i) not more than \$750,000 for purposes of carrying out section 212; and

(ii) such sums as may be necessary for purposes of carrying out section 211.

Approved August 19, 1988.

LEGISLATIVE HISTORY—S. 2561 (H.R. 4904):

COMMITTEE REPORTS: No. 100-819 accompanying H.R. 4904 (Comm. on Education and Labor).

COMMITTEE REPORTS: No. 100-438 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 2, considered and passed Senate.

Aug. 8, H.R. 4904 considered and passed House; proceedings vacated and S. 2561 passed in lieu.

Public Law 100-408
100th Congress

An Act

Aug. 20, 1988

[H.R. 1414]

Price-Anderson
Amendments
Act of 1988.
42 USC 2011
note.

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price-Anderson Amendments Act of 1988".

SEC. 2. FINANCIAL PROTECTION.

(a) **PRIMARY FINANCIAL PROTECTION AMOUNT REQUIRED FOR LARGE ELECTRICAL GENERATING FACILITIES.**—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "primary" before "financial protection" the first, second, third, and sixth places it appears;

(2) by inserting before the period at the end of the proviso in the first sentence the following: "(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)"; and

(3) by striking in the third sentence all that precedes "private liability insurance" and inserting the following: "The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,".

(b) **STANDARD DEFERRED PREMIUM AMOUNT.**—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) in the second proviso of the third sentence by striking "That" and all that follows through "protection" and inserting the following: "That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than \$63,000,000 (subject to adjustment for inflation under subsection t.), but not more than \$10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection"; and

(2) in the third proviso of the third sentence, by adding after "and costs" the following: "(excluding legal costs subject to subsection o. (1)(D), payment of which has not been authorized under such subsection)".

(c) **LESSER ANNUAL DEFERRED PREMIUM AMOUNTS.**—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(3) by striking the fifth and sixth sentences; and

(4) by adding at the end of the fourth sentence the following new paragraph:

“(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

“(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

“(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

“(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.”

(d) BORROWING AUTHORITY.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting “(3)” before the penultimate sentence and redesignating the penultimate and last sentences as a paragraph (3); and

(2) by adding at the end the following new paragraph:

“(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

“(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

“(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

“(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

“(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obliga-

Securities.

tions to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any such obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any such obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.”.

SEC. 3. INDEMNIFICATION AGREEMENTS FOR LICENSEES OF NUCLEAR REGULATORY COMMISSION.

Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210c) is amended by striking “August 1, 1987” each place it appears and inserting “August 1, 2002”.

SEC. 4. INDEMNIFICATION AGREEMENTS FOR ACTIVITIES UNDERTAKEN UNDER CONTRACT WITH DEPARTMENT OF ENERGY.

(a) **IN GENERAL.**—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended to read as follows:

“d. **INDEMNIFICATION OF CONTRACTORS BY DEPARTMENT OF ENERGY.**—(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the ‘Secretary’) may have, the Secretary shall, until August 1, 2002, enter into agreements of indemnification under this subsection with any person who conducts activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to the financial protection requirements under subsection b. or agreements of indemnification under subsection c. or k.

“(B)(i)(I) Beginning 60 days after the date of enactment of the Price-Anderson Amendments Act of 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 96-373, 85-804 entered into between August 1, 1987, and the date of enactment of the Price-Anderson Amendments Act of 1988.

“(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection n. (1) to be incorporated in agreements of indemnification. Any such provisions incorporated under this subsection shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

“(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that is funded by the Nuclear Waste Fund established in section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection b.

Claims.

“(2) In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.

“(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection b. is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection b.

“(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

“(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.

“(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

“(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed \$100,000,000.

“(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

“(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.”.

(b) **DEFINITIONS.**—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended by adding at the end the following new subsections:

“dd. The terms ‘high-level radioactive waste’ and ‘spent nuclear fuel’ have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

“ee. The term ‘transuranic waste’ means material contaminated with elements that have an atomic number greater than 92, includ-

ing neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

"ff. The term 'nuclear waste activities', as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265)."

SEC. 5. PRECAUTIONARY EVACUATIONS.

(a) **COSTS INCURRED BY STATE GOVERNMENTS.**—Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by inserting after "nuclear incident" the first place it appears the following: "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)".

(b) **DEFINITION.**—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"gg. The term 'precautionary evacuation' means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

"(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

"(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety."

(c) **LIMITATION.**—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

"q. **LIMITATION ON AWARDED OF PRECAUTIONARY EVACUATION COSTS.**—No court may award costs of a precautionary evacuation unless such costs constitute a public liability."

SEC. 6. AGGREGATE PUBLIC LIABILITY FOR SINGLE NUCLEAR INCIDENT.

Section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)) is amended to read as follows:

"e. **LIMITATION ON AGGREGATE PUBLIC LIABILITY.**—(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection o. (1)(D), shall not exceed—

“(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection b. (plus any surcharge assessed under subsection o. (1)(E));

“(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection d., the maximum amount of financial protection required under subsection b. or the amount of indemnity and financial protection that may be required under paragraph (3) of subsection d., whichever amount is more; and

Contracts.

“(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

“(i) \$500,000,000, together with the amount of financial protection required of the licensee; or

“(ii) if the amount of financial protection required of the licensee exceeds \$60,000,000, \$560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

“(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in section 170 i. and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

Claims.

“(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection b., to fund any action undertaken pursuant to paragraph (2).

“(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection d. is applicable, such aggregate public liability shall not exceed the amount of \$100,000,000, together with the amount of financial protection required of the contractor.”

Contracts.

SEC. 7. COMPENSATION PLANS.

(a) IN GENERAL.—Section 170 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(i)) is amended to read as follows:

“i. COMPENSATION PLANS.—(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), the Secretary or the Commisison, as appropriate, shall—

“(A) make a survey of the causes and extent of damage; and

“(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

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“(2) Not later than 90 days after any determination by a court, pursuant to subsection o., that the public liability from a single

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nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1) the President shall submit to the Congress—

“(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection e. (1);

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“(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

Claims.

“(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

“(D) any additional legislative authorities necessary to implement such compensation plan or plans.

“(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

“(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

“(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 of this subsection.

“(5) For the purpose of paragraph (4) of this subsection—

“(A) continuity of session is broken only by an adjournment of Congress sine die; and

“(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

“(6)(A) This paragraph is enacted—

“(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

“(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

“(B) For purposes of this paragraph, the term ‘resolution’ means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: ‘That the _____ approves the compensation plan numbered _____ submitted to the Congress on _____, 19 __’, the first blank space therein being

filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

“(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

“(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

“(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

“(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

“(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

“(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

“(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.”.

(b) **CONFORMING AMENDMENT.**—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended—

(1) in the matter preceding paragraph (1), by striking “subsection 170 e.” and inserting “the applicable limit of liability under subparagraph (A), (B), or (C) of subsection e. (1).”; and

(2) by striking paragraph (4).

SEC. 8. DATE OF EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT.

Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 221) is amended—

(1) by striking “August 1, 1987” each place it appears and inserting “August 1, 2002”; and

(2) by striking “excluding cost of investigating and settling claims and defending suits for damage;” in paragraph (1) and inserting “including such legal costs of the licensee as approved by the Commission;”.

SEC. 9. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 221) is amended by striking subsection 1. and inserting the following:

“(1) **PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.**—(1) Not later than 90 days after the date of the enactment of the Price-Anderson Amendments Act of 1988, the President shall establish a commission (in this subsection referred to as the ‘study commission’) in accordance with the Federal Advisory Commission Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1).

“(2)(A) The study commission shall consist of not less than 7 but not more than 11 members, who—

“(i) shall be appointed by the President; and

“(ii) shall be representative of a broad range of views and interests.

“(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

“(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

“(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

“(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

“(3) The study commission shall conduct a comprehensive study by appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1), and shall submit to the Congress a report setting forth—

“(A) recommendations for any changes in the laws and procedures governing the liability or civil procedures that are necessary to ensure the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

“(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period;

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“(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

“(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5, United States Code.

“(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

“(C) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

“(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information; advice or assistance upon request by the chairperson of the study commission.

“(E) Each member of the study commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act (5 U.S.C. App.) for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5, United States Code.

“(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

“(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988.

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“(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.”.

Termination date.

SEC. 10. WAIVER OF DEFENSES.

(a) **STATUTE OF LIMITATIONS.**—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in clause (iii) of the first sentence by striking the following: “, but in no event more than twenty years after the date of the nuclear incident”.

(b) **APPLICABILITY.**—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended—

(1) by redesignating subparagraphs (a), (b), and (c) as subparagraphs (A), (B), and (C), respectively;

(2) by striking “or” at the end of subparagraphs (A) and (B); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

“(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed

under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a.,

“(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a., or

“(F) arises out of, results from, or occurs in the course of nuclear waste activities.”.

SEC. 11. JUDICIAL REVIEW OF CLAIMS ARISING OUT OF A NUCLEAR INCIDENT.

(a) **CONSOLIDATION OF CLAIMS.**—Section 170 n. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(2)) is amended—

(1) in the first sentence—

(A) by striking “an extraordinary nuclear occurrence” each place it appears and inserting “a nuclear incident”; and

(B) by striking “the extraordinary nuclear occurrence” each place it appears and inserting “the nuclear incident”; and

(2) in the second sentence, by inserting after “court” the first place it appears the following: “(including any such action pending on the date of the enactment of the Price-Anderson Amendments Act of 1988)”; and

(3) by adding at the end the following new sentence: “In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28, United States Code, or within the 30-day period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988, whichever occurs later.”.

(b) **DEFINITION OF PUBLIC LIABILITY ACTION.**—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

“hh. The term ‘public liability action’, as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.”.

(c) **SPECIAL CASELOAD MANAGEMENT PANEL.**—Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by adding at the end the following new paragraph:

“(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the ‘management panel’) to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

“(i) a court, acting pursuant to subsection o., determines that the aggregate amount of public liability is likely to exceed the

amount of primary financial protection available under subsection b. (or an equivalent amount in the case of a contractor indemnified under subsection d.); or

“(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

“(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

“(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

“(C) It shall be the function of each management panel—

“(i) to consolidate related or similar claims for hearing or trial;

“(ii) to establish priorities for the handling of different classes of cases;

“(iii) to assign cases to a particular judge or special master;

“(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

“(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

“(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

“(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.”.

(d) **LEGAL COSTS.**—

(1) **PAYMENT CRITERIA.**—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)), as previously amended by this Act, is further amended by—

(A) inserting after the subsection designation the following: “**PLAN FOR DISTRIBUTION OF FUNDS.**—(1)”;

(B) redesignating paragraphs (1) through (3) as subparagraphs (A) through (C); and

(C) adding at the end the following:

“(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection b.

“(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection b., any licensee required to pay a standard deferred premium under subsection b. (1) shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

“(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

“(A) submitted to the court the amount of such payment requested; and

“(B) demonstrated to the court—

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- “(i) that such costs are reasonable and equitable; and
- “(ii) that such person has—
 - “(I) litigated in good faith;
 - “(II) avoided unnecessary duplication of effort with that of other parties similarly situated;
 - “(III) not made frivolous claims or defenses; and
 - “(IV) not attempted to unreasonably delay prompt settlement or adjudication of such claim.

(2) **DEFINITION OF LEGAL COSTS.**—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

“j. **LEGAL COSTS.**—As used in section 170, the term ‘legal costs’ means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.”.

SEC. 12. REPORTS TO CONGRESS BY NUCLEAR REGULATORY COMMISSION AND DEPARTMENT OF ENERGY.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

- (1) by inserting “(1)” after the subsection designation;
- (2) by striking “shall submit to the Congress by August 1, 1983, a detailed report”, and inserting the following: “and the Secretary shall submit to the Congress by August 1, 1983, detailed reports”; and
- (3) by adding at the end the following new paragraph:

“(2) Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.”.

SEC. 13. LIABILITY OF LESSORS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) previously amended by this Act, is further amended by adding at the end the following new subsection:

“r. **LIMITATION ON LIABILITY OF LESSORS.**—No person under a bare lease or fee lease of any utilization or production facility (or part thereof) in which he has an undivided interest therein shall be liable by reason of an interest in such facility as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.”.

SEC. 14. PUNITIVE DAMAGES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) previously amended by this Act, is further amended by adding at the end the following new subsection:

“s. **LIMITATION ON PUNITIVE DAMAGES.**—No court may award punitive damages in any action with respect to a nuclear incident or evacuation, or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.”.

SEC. 15. INFLATION ADJUSTMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

“t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b. (1) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988, in accordance with the aggregate percentage change in the Consumer Price Index since—

“(A) such date of enactment, in the case of the first adjustment under this subsection; or

“(B) the previous adjustment under this subsection.

“(2) For purposes of this subsection, the term ‘Consumer Price Index’ means the Consumer Price Index for all urban consumers published by the Secretary of Labor.”.

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.**(a) REFERENCES TO NUCLEAR REGULATORY COMMISSION.—**

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking “Commission” each place it appears and inserting “Nuclear Regulatory Commission”.

(2) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by striking “Commission” in the first sentence and inserting the following: “Nuclear Regulatory Commission (in this section referred to as the ‘Commission’)”.

(b) REFERENCES TO SECRETARY OF ENERGY.—

(1) Subsections j. and m. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) are amended by striking “Commission” each place it appears and inserting the following: “Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,”.

(2) Section 11 t. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)(2)) is amended by striking “Commission” and inserting “Secretary of Energy”.

(3) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after “Commission” the first 2 places it appears the following: “or the Secretary, as appropriate,”.

(4) Subsections g., h., j., and m. of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) are amended by inserting after “Commission” each place it appears the following: “or the Secretary, as appropriate,”.

(5) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended—

(A) in paragraph (1)—

(i) by striking “Commission” in subparagraph (C) and inserting “Department of Energy”; and

(ii) by inserting after “Commission” the second place it appears the following: “or the Secretary, as appropriate,”; and

(B) in paragraph (2), by inserting after “Commission” the following: “or the Secretary, as appropriate”.

(6) Section 170 o. (1)(C), as redesignated by section 11(d)(1) of the bill, is amended—

(A) by inserting after "Commission" the first place it appears the following: "or the Secretary, as appropriate,"; and

(B) by inserting after "Commission" the second place it appears the following: "or the Secretary as appropriate".

(c) REFERENCES TO REVISED STATUTES.—

(1) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting "(41 U.S.C. 5)" after "Statutes".

(2) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by striking "section 3679 of the Revised Statutes, as amended" and inserting the following: "sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31, United States Code".

(d) INTERNAL CROSS-REFERENCES.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "subsection each place it appears and inserting "section".

(2) Section 11 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)) is amended by striking "subsection" each place it appears and inserting "section".

(3) Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by striking "subsections 170 a., c., and k." and inserting "subsections a., c., and k. of section 170".

(4) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended—

(A) in the first sentence, by striking "subsection 2 i. of the Atomic Energy Act of 1954, as amended" and inserting "section 2 i.";

(B) in the first sentence, by striking "subsection 170 b." and inserting "subsection b."; and

(C) in the second sentence, by striking "subsection 170 c." and inserting "subsection c.".

(5) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended in the first sentence by striking "subsection 170 a." and inserting "subsection a.".

(6) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in the last sentence by striking "subsection 170 e." and inserting "subsection e.".

(7) Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended in subparagraph (B), as redesignated by section 11(d)(1) of the bill, by striking "subparagraph (3) of this subsection (o)" and inserting "subparagraph (C)".

(e) SUBSECTION CAPTIONS.—

(1) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by inserting after the subsection designation the following: "REQUIREMENT OF FINANCIAL PROTECTION FOR LICENSEES.—".

(2) Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by inserting after the subsection designation the following: "AMOUNT AND TYPE OF FINANCIAL PROTECTION FOR LICENSEES.—".

(3) Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by inserting after the subsection designation the following: "INDEMNIFICATION OF LICENSES BY NUCLEAR REGULATORY COMMISSION.—".

(4) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after the subsection designation

the following: "COLLECTION OF FEES BY NUCLEAR REGULATORY COMMISSION.—".

(5) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting after the subsection designation the following: "USE OF SERVICES OF PRIVATE INSURERS.—".

(6) Section 170 h. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(h)) is amended by inserting after the subsection designation the following: "CONDITIONS OF AGREEMENTS OF INDEMNIFICATION.—".

(7) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by inserting after the subsection designation the following: "CONTRACTS IN ADVANCE OF APPROPRIATIONS.—".

(8) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by inserting after the subsection designation the following: "EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT FOR NONPROFIT EDUCATIONAL INSTITUTIONS.—".

(9) Section 170 m. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(m)) is amended by inserting after the subsection designation the following: "COORDINATED PROCEDURES FOR PROMPT SETTLEMENT OF CLAIMS AND EMERGENCY ASSISTANCE.—".

(10) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by inserting after the subsection designation the following: "WAIVER OF DEFENSES AND JUDICIAL PROCEDURES.—".

(11) Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by inserting after the subsection designation the following: "REPORTS TO CONGRESS.—".

SEC. 17. CIVIL PENALTIES.

The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

"SEC. 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to a civil penalty of not to exceed \$100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

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"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

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"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

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"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

Courts, U.S.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone and Telegraph Company and its subsidiaries (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratories;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory."

SEC. 18. CRIMINAL PENALTIES.

Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows:

42 USC 2273.

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, notwithstanding section 3571 of title 18, United States Code, be subject to a fine of not more than \$25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, United States Code, punishment shall be a fine of not more than \$50,000, or imprisonment for not more than five years, or both."

Contracts.

SEC. 19. NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES.

42 USC 2210 note.

(a) RULEMAKING PROCEEDING.—

Contracts.

(1) PURPOSE.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as "radiopharmaceutical licensees").

(2) FINAL DETERMINATION.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered

by the Commission within 18 months of the date of the enactment of this Act.

(b) NEGOTIATED RULEMAKING.—

(1) **ADMINISTRATIVE CONFERENCE GUIDELINES.**—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act, conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (42 Fed. Reg. 30708, July 15, 1982).

(2) **DESIGNATION OF CONVENER.**—Within 30 days of the date of the enactment of this Act, the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

Contracts.

(3) **SUBMISSION OF RECOMMENDATIONS OF THE CONVENER.**—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

(4) **PUBLICATION OF RECOMMENDATIONS AND PROPOSED RULE.**—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

(5) **ADMINISTRATIVE PROCEDURES.**—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code.

42 USC 2014
note.

SEC. 20. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of the enactment of this Act and shall be applicable with respect to nuclear incidents occurring on or after such date.

(b)(1) The amendments made by section 11 shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

(2)(A) Section 234A of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of the enactment of this Act.

(B) Section 223 c. of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of enactment of this Act.

Approved August 20, 1988.

LEGISLATIVE HISTORY—H.R. 1414 (S. 748) (S. 1865):

HOUSE REPORTS: No. 100-104, Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Science, Space, and Technology), and Pt. 3 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-70 accompanying S. 748 (Comm. on Energy and Natural Resources) and No. 100-218 accompanying S. 1865 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 29, 30, considered and passed House.

Vol. 134 (1988): Mar. 16-18, considered and passed Senate, amended.

Aug. 2, House concurred in certain Senate amendment with an amendment and disagreed to others.

Aug. 5, Senate receded and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 20, Presidential statement.

Public Law 100-409
100th Congress

An Act

Aug. 20, 1988

[H.R. 1860]

Federal Land
Exchange
Facilitation Act
of 1988.
Public lands.
43 USC 1701
note.
43 USC 1716
note.

Entitled the "Federal Land Exchange Facilitation Act of 1988".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Exchange Facilitation Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds and declares that—

(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolidation for both Federal and State land managers and private landowners;

(3) the Federal Land Policy and Management Act of 1976 and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedures and expedite exchanges.

(b) **PURPOSES.**—The purposes of this Act are:

(1) to facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards; and

(B) establishing procedures and guidelines for the resolution of appraisal disputes.

(2) to provide sufficient resources to the Secretaries of the Interior and Agriculture to ensure that land exchange activities can proceed consistent with the public interest; and

(3) to require a study and report concerning improvements in the handling of certain information related to Federal and other lands.

Reports.

SEC. 3. LAND EXCHANGES AND APPRAISALS.

(a) FLPMA AMENDMENTS.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) is hereby amended by adding the following new subsections:

“(d)(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section.

Contracts.

“(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

“(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

“(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section, the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

“(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

“(e) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interest therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title.

Patents and trademarks.

“(f)(1) Within one year after the enactment of subsections (d) through (i) of this section, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of

Regulations.

this section and shall include provisions pertaining to appraisal lands and interests therein involved in such exchanges.

"(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: *Provided, however,* That the provisions of such rules and regulations shall—

"(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

"(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

"(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

"(ii) also permit the Secretary concerned, where the Secretary determines it is in the public interest and it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assumed costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

"As used in this subparagraph, the term 'costs or other responsibilities or requirements' shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

"(g) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

“(h)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

“(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than \$150,000; and

“(B) the Secretary concerned finds in accordance with the regulations to be promulgated pursuant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

“(C) the definition of and procedure for determining ‘approximately equal value’ has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

“(2) As used in this subsection, the term ‘approximately equal value’ shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the ‘Small Tracts Act’).

“(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation.

Minerals and
mining.

“(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other law applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.”

Patents and
trademarks.

(b) CONFORMING AMENDMENT.—The first sentence of section 206(b) (43 U.S.C. 1716(b)) of the Federal Land Policy and Management Act of 1976 is hereby amended by inserting the word “concerned” after the words “the Secretary”.

(c) ADDITIONAL AMENDMENT.—Section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) is hereby amended to read as follows:

National Forest
System.
National Park
System.
National
Wildlife Refuge
System.
National
Wilderness
Preservation
System.
California.

“(c) Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.”

43 USC 1716
note.

SEC. 4. LAND EXCHANGE FUNDING AUTHORIZATION.

In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed \$4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy and Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.

43 USC 1716
note.

SEC. 5. SAVING CLAUSE.

Nothing in this Act shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92-203, as amended) or the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby. Nothing in this Act shall be construed to change the discretionary nature of land exchanges or to prohibit the Secretary concerned or any other party or parties involved in a land exchange from withdrawing from the exchange at any time, unless the Secretary concerned and the other party or parties specifically commit otherwise by written agreement.

SEC. 6. NFMA AMENDMENTS.

16 USC 521b.

Section 17(b) of the National Forest Management Act of 1976 is hereby amended—

- (1) by striking out “\$25,000” and inserting in lieu thereof “\$150,000”;
- (2) by striking out “and” at the end of paragraph (3);
- (3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof “; and”; and
- (4) by adding after paragraph (4) the following:

“(5) any adjustment made by the Secretary of relative value pursuant to section 206(f)(2)(B)(ii) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).”.

SEC. 7. ADDITIONAL AMENDMENTS.

The Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) is hereby amended as follows:

(a) The words “national forest lands” are hereby deleted wherever they occur, and the words “National Forest System lands” are inserted in lieu thereof.

(b) The words “a national forest” are hereby deleted in the first paragraph, and the words “a unit of the National Forest System” are inserted in lieu thereof.

(c) The following sentence is hereby added at the end of the second paragraph: “Lands interchanged under the authority of this Act shall be deemed to include interests in lands.”.

SEC. 8. LAND INFORMATION STUDY.

43 USC 751 note.

(a) **STUDY.**—The Secretary of the Interior shall conduct an assessment of the need for and cost and benefits associated with improvements in the existing methods of land surveying and mapping and of collecting, storing, retrieving, disseminating, and using information about Federal and other lands.

(b) **CONSULTATION.**—In conducting the assessment required by this section, the Secretary of the Interior shall consult with the following—

- (1) the Secretary of Agriculture;
- (2) the Secretary of Commerce;
- (3) the Director of the National Science Foundation;
- (4) representatives of State and local governments;
- (5) representatives of private sector surveying and mapping science.

(c) **REPORT.**—No later than one year after the day of enactment of this Act, the Secretary of the Interior shall report to the Congress concerning the results of the assessment required by this section.

(d) **TOPICS.**—In the report required by subsection (c), the Secretary of the Interior shall include a discussion and evaluation of the following:

(1) relevant recommendations made by the National Academy of Sciences (National Research Council) on the concept of a multipurpose cadastre from time to time prior to the date of enactment of this Act;

Records.

(2) ongoing activities concerning development of an overall reference frame for land and resource information, including but not limited to a geodetic network, a series of current and accurate large-scale maps, cadastral overlay maps, unique identifying numbers linking specific land parcels to a common index of all land records in United States cadastral systems, and a series of land data files;

Records.

(3) ways to achieve better definition of the roles of Federal and other governmental agencies and the private sector in dealing with land information systems;

(4) ways to improve the coordination of Federal land information activities; and

(5) model standards developed by the Secretary for compatible multipurpose land information systems for use by Federal,

State and local governmental agencies, the public, and the private sector.

(e) **RECOMMENDATIONS.**—The report required by subsection (c) may also include such recommendations for legislation as the Secretary of the Interior considers necessary or desirable.

SEC. 9. CASH EQUALIZATION WAIVER.

Subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) is hereby amended by adding the following at the end of the third sentence thereof:

"The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or \$15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States."

SEC. 10. TEMPORARY REVOCATION AUTHORITY.

The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), as amended, is further amended by adding the following new section:

"**SEC. 215.** (a) When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85-2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof), to use the authority contained herein, in lieu of other authority provided in this Act including section 204, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

"(b) **REQUIREMENTS.**—The authority specified in subsection (a) of this section may be exercised only in cases where—

"(1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;

"(2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;

"(3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;

"(4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and

"(5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Interior and

Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which includes—

“(A) a justification for the necessity of exercising such authority in order to complete an exchange;

“(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

“(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

“(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

“(c) LIMITATIONS.—(1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a), or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia.

“(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

“(3) The availability or exercise of the authority granted in subsection (a) may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

Claims.
Courts, U.S.
District of
Columbia.

“(d) TERMINATION.—The authority specified in subsection (a) shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuation thereof) specified in subsection (a) is no longer in effect, whichever occurs first.”.

Approved August 20, 1988.

LEGISLATIVE HISTORY—H.R. 1860:

HOUSE REPORTS: No. 100-165, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORTS: No. 100-375 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Dec. 14, considered and passed House.

Vol. 134 (1988): June 13, considered and passed Senate, amended.

July 27, House concurred in Senate amendments with an amendment.

Aug. 3, Senate concurred in House amendment.

Public Law 100-410
100th Congress

An Act

To release a reversionary interest of the United States in a certain parcel of land located in Bay County, Florida.

Aug. 22, 1988

[H.R. 3431]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF REVERSIONARY INTEREST.

(a) AUTHORIZATION.—If within one year after the date of enactment of this Act, the Secretary of the Interior (hereafter, “the Secretary”) receives from the Board of Commissioners of Bay County, Florida (hereafter, “the county”) the documents required by this Act, the Secretary is authorized and directed to take all actions necessary to release from the property described in subsection (b) the restriction that such property be forever used for recreational purposes, and to release and quitclaim all right, title and interest of the United States in the surface estate in such property to the county or its successors. The minerals in such property, and rights associated therewith, which were reserved to the United States shall continue to be so reserved.

Minerals and
mining.

(b) DESCRIPTION.—The property referred to in subsection (a) is a parcel of land comprised of approximately 40 acres surface estate to which was conveyed to Bay County, Florida, pursuant to the Act entitled “An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes” (43 U.S.C. 869 et seq.), and is more particularly described as follows:

TALLAHASSEE MERIDIAN, FLORIDA

Township 1 South, Range 14 West

Section 15: Southwest quarter, southwest quarter.

SEC. 2. REQUIREMENTS.

Recreation.

(a) DOCUMENTS.—The Secretary shall not exercise the authority described in section 1 unless and until the county makes a timely submission to the Secretary of documents which to the satisfaction of the Secretary demonstrate that—

(1) The county has entered into a binding agreement to exchange the county’s interest in the land described in section 1(b) for other land, comprising at least 36 acres, which the Secretary has determined is suitable for use for public open space and recreation; and

Contracts.

(2) The county agrees that upon the completion of the exchange described in paragraph (1), the land obtained by the county through such exchange shall be forever used for public open space and recreation, and that if any part of such land is used for any other purpose, all right, title, and interest of the county in all such land obtained by the county in such exchange shall be transferred to and vested in the United States.

Public lands.
Recreation.

(b) **OTHER CONDITIONS.**—In the event that by operation of this Act, any land is transferred to and vested in the United States, the Secretary shall retain such land and shall manage it for public open space and recreation unless the Secretary determines, in accordance with the Federal Land Policy and Management Act of 1976, that such land is suitable for disposal, in which case the Secretary may dispose of such land through exchange or otherwise.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3431:

HOUSE REPORTS: No. 100-706 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-451 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 20, considered and passed House.

Aug. 9, considered and passed Senate.

Public Law 100-411
100th Congress

An Act

To settle certain land claims of the Coshatta Tribe of Louisiana against the United States, to authorize the use and distribution of the settlement funds, and for other purposes.

Aug. 22, 1988

[H.R. 3617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SETTLEMENT PAYMENT.

(a)(1) The Secretary of the Treasury is authorized and directed to pay to the Secretary of the Interior (hereinafter referred to as the "Secretary") for the benefit of the Coshatta Tribe of Louisiana (hereinafter referred to as the "Tribe"), out of any money in the Treasury not otherwise appropriated, the sum of \$1,300,000.

(2) Such sum represents the value of a settlement reached between the Tribe and the United States in a dispute over the uncompensated taking by the United States of land owned or occupied by the Tribe or its historical predecessor-in-interest in the 19th Century.

(b) The payment of such sum shall be in full settlement of, and shall finally dispose of, all rights, claims or demands which the Tribe has asserted, or could have asserted, against the United States under the provisions of the Act of August 13, 1946 (60 Stat. 1049).

(c) Upon payment of the funds as provided in subsection (a), the Secretary shall hold, manage and invest such funds, less—

- (1) the amount paid to the Tribe pursuant to section 2(b), and
- (2) any amount paid as attorney fees or expenses pursuant to section 4, as tribal trust funds until disposed of as provided by section 2 of this Act.

SEC. 2. USE AND DISTRIBUTION OF FUNDS.

(a) All available funds invested by the Secretary pursuant to section 1 plus all accrued interest or income, less the amount reserved for tribal organization pursuant to section 4, shall be distributed as provided in this section.

(b)(1) The Tribe, with the assistance and approval of the Secretary, shall develop a plan for the use and distribution of the funds held by the Secretary pursuant to section 1.

(2) Upon payment by the Secretary of the Treasury of the amount provided in section 1, the Secretary shall, prior to investing such funds, immediately make available to the Tribe 3 per centum of such funds to assist the Tribe in developing such plan and shall render such other advice and assistance as the Tribe may require.

(c) Prior to approving a plan submitted pursuant to subsection (b), the Secretary shall be assured that—

- (1) tribal members were reasonably consulted during the development of the plan; and
- (2) the plan complies with paragraphs (3), (5), and (6) of section 3(b) of the Act of October 19, 1973 (25 U.S.C. 1403).

(d)(1) In the event that the plan provides for the per capita distribution of any portion of the funds to the members of the Tribe, such per capita payments shall be made as provided in this subsection.

Records.

(2)(A) Within one hundred and eighty days after the approval, by the Secretary, of a plan for the use and distribution of funds as provided in subsection (c), the Secretary shall prepare a roll of all persons who—

(i) were born on or prior to and living on the date of enactment of this Act,

(ii) are persons—

(I) on the roll prepared by the Tribe which is on file with the Office of the Assistant Secretary of the Interior for Indian Affairs, or

(II) who can show, by evidence satisfactory to the Secretary, that such person is at least one-fourth degree of Coushatta Tribe of Louisiana blood, and

(iii) are not enrolled with any other Indian tribe.

Federal
Register,
publication.

(B)(i) Within thirty days after the date of the Secretarial approval of a plan, the Secretary shall publish in the Federal Register a notice of the right of persons to apply for enrollment under subparagraph (A)(i)(II) of this paragraph and shall, contemporaneously, publish such notice in an appropriate newspaper or newspapers of general circulation, including those in the parish within which the Tribe is located.

(ii) Applications submitted for enrollment pursuant to subparagraph (A)(i)(II) must be submitted within ninety days after the publication of the notice in the Federal Register as required by this subparagraph.

(C) The determination of the Secretary of the eligibility of an applicant under subparagraph (A)(i)(II) of this paragraph for enrollment under this subsection shall be final.

(3)(A) Upon final approval of the roll by the Secretary, the funds provided for per capita payments under the plan adopted pursuant to this section shall be paid in equal shares to persons on such roll.

(B) Payments made pursuant to this paragraph shall be subject to the provisions of section 7 of the Act of October 19, 1973 (25 U.S.C. 1407).

SEC. 3. ATTORNEY FEES.

Not more than 10 per centum of the payment specified in section 1(a) shall be paid to, or received by, any agent or attorney as consideration for any services rendered in connection with such payment, any contract to the contrary notwithstanding. Violation of this section shall be deemed a misdemeanor punishable by a fine of not more than \$1,000.

Law
enforcement and
crime.

SEC. 4. TRIBAL ORGANIZATION.

(a) The provisions of the Act of June 18, 1934 (25 U.S.C. 461 et seq.) are made applicable to the Coushatta Tribe of Louisiana and the Tribe is authorized to organize under section 16 of such Act.

(b) For the purpose of such organization, the base roll of the Tribe shall be the roll established pursuant to section 2(d) of this Act.

(c)(1) The Secretary shall reserve, for a period of three years, from the funds authorized to be distributed pursuant to section 2 an amount equal to 5 per centum of such funds.

(2) Upon notification by the Tribe of its intent to organize under this section and upon the request of the Tribe, the Secretary shall disburse to the Tribe the amount reserved pursuant to this subsection, plus any accrued interest or income, for purposes of assisting the Tribe in its organizational efforts.

(3) If the Tribe has not requested such funds for organizational purposes by the end of such three year period, the Secretary shall disburse the funds to the Tribe for such purposes as it may desire.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3617:

HOUSE REPORTS: No. 100-565, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-478 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 13, considered and passed House.

Aug. 11, considered and passed Senate.

An Act

Aug. 22, 1988
[H.R. 3880]

To extend the authorization of the Upper Delaware Citizens Advisory Council for an additional ten years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; relating to the Upper Delaware River) is amended by striking out "ten" and inserting in lieu thereof "20".

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3880:

HOUSE REPORTS: No. 100-697 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-452 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 20, considered and passed House.

Aug. 9, considered and passed Senate.

Public Law 100-413
100th Congress

An Act

To simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicant for such licensing.

Aug. 22, 1988
[H.R. 4458]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Parimutuel Licensing Simplification Act of 1988”.

Parimutuel
Licensing
Simplification
Act of 1988.
28 USC 534 note.

SEC. 2. SUBMISSION BY ASSOCIATION OF STATE REGULATORY OFFICIALS.

28 USC 534 note.

(a) **IN GENERAL.**—An association of State officials regulating parimutuel wagering, designated for the purpose of this section by the Attorney General, may submit fingerprints to the Attorney General on behalf of any applicant for State license to participate in parimutuel wagering. In response to such a submission, the Attorney General may, to the extent provided by law, exchange, for licensing and employment purposes, identification and criminal history records with the State governmental bodies to which such applicant has applied.

(b) **DEFINITION.**—As used in this section, the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

SEC. 3. EFFECTIVE DATE.

28 USC 534 note.

This Act shall take effect on July 1, 1989.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4458:

HOUSE REPORTS: No. 100-832 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-414
100th Congress

An Act

Aug. 22, 1988

[H.R. 4694]

To amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LICENSE FEES.

Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

- (1) in the third sentence, striking out “\$300, plus \$150” and inserting in lieu thereof “\$400, plus \$200”; and
- (2) in the fourth sentence, striking out “\$3,000” and inserting in lieu thereof “\$4,000”.

SEC. 2. ADVISORY COMMITTEE.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499 et seq.) is amended by adding at the end thereof the following new section:

“ADVISORY COMMITTEE

“SEC. 20. (a) The Secretary of Agriculture shall establish the Perishable Agricultural Commodities Act Industry Advisory Committee to—

“(1) review the Perishable Agricultural Commodities Act program to ensure increased program efficiency and equitable treatment among the various segments of the fruit and vegetable industry;

“(2) enhance the mutual understanding and cooperation among all segments of the fruit and vegetable industry;

“(3) advise the Secretary on the Perishable Agricultural Commodities Act program; and

“(4) submit a report to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary, as provided in subsection (f).

“(b) The committee shall be comprised of not more than twenty members, and ten alternates, appointed by the Secretary, representing the balanced interests of the fruit and vegetable industry, including but not limited to growers, shippers, brokers, receivers, wholesalers, retailers, and processors. The Secretary shall appoint the members of the advisory committee not later than 180 days after the date of enactment of this section.

“(c) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

“(d) The Secretary shall provide the advisory committee with necessary clerical assistance and personnel.

“(e) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States. Members of the advisory committee shall, while away from their homes or regular places of business in the performance of

Establishment.
7 USC 499t.

Reports.

services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

“(f)(1) The advisory committee shall review the Perishable Agricultural Commodities Act program, including but not limited to the administration, operations, and funding of such program.

“(2) On the basis of its review, the advisory committee shall make findings and develop recommendations for consideration by Congress and the Secretary of Agriculture with respect to the future operation of the Perishable Agricultural Commodities Act program.

“(3) The advisory committee shall submit, to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary of Agriculture, an interim report no later than September 30, 1989, and a final report no later than May 1, 1990, containing the results of its review and recommendations based on such results.

Reports.

“(g) The advisory committee shall cease to exist on the date of its report to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary of Agriculture.”.

Termination
date.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4694:

HOUSE REPORTS: No. 100-794 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 100-415
100th Congress

An Act

Aug. 22, 1988

[H.R. 4754]

To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

40 USC 885.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended as follows: At the end of section 17(a), insert the following: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation \$2,353,000 for the fiscal year 1989; \$2,650,000 for the fiscal year 1990; \$2,400,000 for the fiscal year 1991; and \$2,200,000 for the fiscal year 1992."

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4754 (S. 2318):

HOUSE REPORTS: No. 100-836 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-462 accompanying S. 2318 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.

Aug. 9, considered and passed Senate.

Public Law 100-416
100th Congress

An Act

To delay temporarily certain regulations relating to sea turtle conservation.

Aug. 22, 1988

[H.R. 5141]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE OF SEA TURTLE CONSERVATION REGULATIONS.

Notwithstanding any other law and except as provided in section 2, the regulations promulgated by the Secretary of Commerce on June 29, 1987, relating to sea turtle conservation, shall not be effective before September 17, 1988.

SEC. 2. REGULATIONS FOR THE CANAVERAL AREAS OF FLORIDA REMAIN IN EFFECT.

The regulations referred to in section 1 shall continue in effect for the Canaveral area of Florida.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 5141:

HOUSE REPORTS: No. 100-826 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.

Aug. 11, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 100-417
100th Congress

Joint Resolution

Aug. 22, 1988

[H.J. Res. 417]

Designating May 1989 as "Neurofibromatosis Awareness Month".

Whereas neurofibromatosis is a genetic disorder which causes tumors to grow in the human nervous system;

Whereas neurofibromatosis is the most common tumor-causing genetic disorder of the nervous system;

Whereas neurofibromatosis is a potentially debilitating disorder which strikes males and females of all races and ethnic groups;

Whereas neurofibromatosis can strike in any part of the nervous system, at any time;

Whereas the National Neurofibromatosis Foundation, Inc., is a voluntary health organization, with chapters across the Nation, which was established to serve people with neurofibromatosis and their families, to stimulate and support biomedical research on neurofibromatosis, and to increase public awareness of neurofibromatosis and its consequences;

Whereas the public and the Federal Government are not sufficiently aware of neurofibromatosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "Neurofibromatosis Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.J. Res. 417:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 2, considered and passed House.

Aug. 9, considered and passed Senate.

Public Law 100-418
100th Congress

An Act

To enhance the competitiveness of American industry, and for other purposes.

Aug. 23, 1988

[H.R. 4848]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Omnibus Trade and Competitiveness Act of 1988”.

Omnibus Trade and Competitiveness Act of 1988.
Exports.
Imports.
International agreements.
19 USC 2901 note.

(b) **TABLE OF CONTENTS.**—

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Sec. 1202. Definitions.

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- Sec. 9201. Patent term extension.
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Subtitle A—Foreign Shipping Practices

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- Sec. 10002. Foreign laws and practices.
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- Sec. 10011. Maximum period for taking action with respect to complaints.
- Sec. 10012. Views of the Department of Commerce and Office of the United States Trade Representative.
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SEC. 2. LEGISLATIVE HISTORY OF H.R. 3 APPLICABLE.

(a) IN GENERAL.—Except as provided in subsection (b), the legislative history of a title, subtitle, part, subpart, chapter, subchapter, section, or other provision of the conference report to accompany H.R. 3 of the 100th Congress (H. Rept. 100-576) shall be treated (along with any other legislative history developed by reason of this Act) as being the legislative history of the provision of this Act that has the same numerical or alphabetical designation as the provision of the conference report.

(b) EXCEPTIONS.—

- (1) Subsection (a) does not apply to section 2424(a) of this Act.
- (2) The legislative history for subtitle F of title VI of the conference report to accompany H.R. 3 shall be treated as the legislative history for subtitle E of title VI of this Act.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

SEC. 1001. FINDINGS AND PURPOSES.

- (a) FINDINGS.—The Congress finds that—

19 USC 2901
note.

(1) in the last 10 years there has arisen a new global economy in which trade, technological development, investment, and services form an integrated system; and in this system these activities affect each other and the health of the United States economy;

(2) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

(3) such disequilibrium and increase are a result of numerous factors, including—

(A) disparities between the macroeconomic policies of the major trading nations,

(B) the large United States budget deficit,

(C) instabilities and structural defects in the world monetary system,

(D) the growth of debt throughout the developing world,

(E) structural defects in the world trading system and inadequate enforcement of trade agreement obligations,

(F) governmental distortions and barriers,

(G) serious shortcomings in United States trade policy, and

(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition;

(4) it is essential, and should be the highest priority of the United States Government, to pursue a broad array of domestic and international policies—

(A) to prevent future declines in the United States economy and standards of living,

(B) to ensure future stability in external trade of the United States, and

(C) to guarantee the continued vitality of the technological, industrial, and agricultural base of the United States;

(5) the President should be authorized and encouraged to negotiate trade agreements and related investment, financial, intellectual property, and services agreements that meet the standards set forth in this title; and

(6) while the United States is not in a position to dictate economic policy to the rest of the world, the United States is in a position to lead the world and it is in the national interest for the United States to do so.

(b) **PURPOSES.**—The purposes of this title are to—

(1) authorize the negotiation of reciprocal trade agreements;

(2) strengthen United States trade laws;

(3) improve the development and management of United States trade strategy; and

(4) through these actions, improve standards of living in the world.

Subtitle A—United States Trade Agreements**PART 1—NEGOTIATION AND IMPLEMENTATION
OF TRADE AGREEMENTS****SEC. 1101. OVERALL AND PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES.** 19 USC 2901.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States are to obtain—

- (1) more open, equitable, and reciprocal market access;
- (2) the reduction or elimination of barriers and other trade-distorting policies and practices; and
- (3) a more effective system of international trading disciplines and procedures.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) IMPROVEMENT OF THE GATT AND MULTILATERAL TRADE NEGOTIATION AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) TRANSPARENCY.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system,

by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) **TRADE AND MONETARY COORDINATION.**—The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) **AGRICULTURE.**—The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive production of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) **UNFAIR TRADE PRACTICES.**—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targeting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—
(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

(III) other collateral concessions be made, as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

Copyrights.
Patents and
trademarks.

(9) TRADE IN SERVICES.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(10) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

Copyrights.
Patents and
trademarks.

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

(ii) provide protection against unfair competition,

(B) to establish in the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

Computers.

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection.

(11) FOREIGN DIRECT INVESTMENT.—

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) will help ensure a free flow of foreign direct investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(12) SAFEGUARDS.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) SPECIFIC BARRIERS.—The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparities that impede access to particular export markets.

(14) **WORKER RIGHTS.**—The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) **ACCESS TO HIGH TECHNOLOGY.**—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects;

Research and development.

(ii) denying equitable access by United States persons to government-held patents;

Patents and trademarks.

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) **BORDER TAXES.**—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

19 USC 2902.

SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.**(a) AGREEMENTS REGARDING TARIFF BARRIERS.—**

(1) Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this title will be promoted thereby, the President—

(A) before June 1, 1993, may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties;

as he determines to be required or appropriate to carry out any such trade agreement.

(2) No proclamation may be made under subsection (a) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applies on such date of enactment.

(3)(A) Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed in paragraph (1) to carry out such agreement with respect to such article.

(B) No staging under subparagraph (A) is required with respect to a rate reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) No reduction in a rate of duty under a trade agreement entered into under subsection (a) on any article may take effect more than 10 years after the effective date of the first reduction under paragraph (1) that is proclaimed to carry out the trade agreement with respect to such article.

(6) A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included

within an implementing bill provided for under section 1103 and that bill is enacted into law.

AGREEMENTS REGARDING NONTARIFF BARRIERS.—

(1) Whenever the President determines that any barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect; and that the purposes, policies, and objectives of this title will be promoted thereby, the President may, before June 1, 1993, enter into a trade agreement with foreign countries providing for—

(i) the reduction or elimination of such barrier or other distortion; or

(ii) the prohibition of, or limitations on the imposition of, such barrier or other distortion.

(2) A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 1101.

BILATERAL AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) Before June 1, 1993, the President may enter into bilateral trade agreements with foreign countries that provide for the elimination or reduction of any duty imposed by the United States. A trade agreement entered into under this paragraph may also provide for the reduction or elimination of barriers to, or other distortions of, the international trade of the foreign country or the United States.

(2) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(3) A trade agreement may be entered into under paragraph (1) with any foreign country only if—

(A) the agreement makes progress in meeting the applicable objectives described in section 1101;

(B) such foreign country requests the negotiation of such an agreement; and

(C) the President, at least 60 days before the date notice is provided under section 1103(a)(1)(A)—

(i) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(ii) consults with such committees regarding the negotiation of such agreement.

(4) The 60-day period of time described in paragraph (3)(B) shall be computed in accordance with section 1103(f).

(5) In any case in which there is an inconsistency between any provision of this Act and any bilateral free trade area agreement that entered into force and effect with respect to the United States before January 1, 1987, the provision shall not apply with respect to the foreign country that is party to that agreement.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

President of U.S.

(1) Before the President enters into any trade agreement under subsection (b) or (c), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 1103.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 1103, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

19 USC 2903.

SEC. 1103. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

President of U.S.

(1) Any agreement entered into under section 1102 (b) or (c) shall enter into force with respect to the United States if (and only if)—

Federal
Register,
publication.

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this title,

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and

why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and

(II) the agreement applies to or affects purchases and sales by such enterprises.

(3) To ensure that a foreign country which receives benefits under a trade agreement entered into under section 1102 (b) or (c) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

President of U.S.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—

(1) Except as provided in subsection (c)—

(A) the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (hereinafter in this section referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) before June 1, 1991; and

(B) such fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) after May 31, 1991, and before June 1, 1993, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 1991.

(2) If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1)(B), the President must submit to the Congress, no later than March 1, 1991, a written report that contains a request for such extension, together with—

President of U.S.
Reports.

(A) a description of all trade agreements that have been negotiated under section 1102 (b) or (c) and the anticipated

schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

President of U.S.
Reports.

(3) The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of his decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but no later than March 1, 1991, a written report that contains—

(A) its views regarding the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

Reports.

(4) The reports submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5)(A) For purposes of this subsection, the term “extension disapproval resolution” means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: “That the _____ disapproves the request of the President for the extension, under section 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.”, with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution that is reported to such House after May 15, 1991.

(c) LIMITATIONS ON USE OF “FAST TRACK” PROCEDURES.—

(1)(A) The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 1102 (b) or (c) if both Houses of the Congress separately agree to procedural disapproval resolutions within any 60-day period.

(B) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(D) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(E) For purposes of this subsection, the term “procedural disapproval resolution” means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: “That the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988, and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act of 1988, if, during the 60-day period beginning on the date on which this resolution is agreed to by the _____, the _____

agrees to a procedural disapproval resolution (within the meaning of section 1103(c)(1)(E) of such Act of 1988).”, with the first blank space being filled with the name of the resolving House of the Congress and the second blank space being filled with the name of the other House of the Congress.

(2) The fast track procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under section 1102(c) with any foreign country if either—

(A) the requirements of section 1102(c)(3) are not met with respect to the negotiation of such agreement; or

(B) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 1102(c)(3)(C)(i) with respect to the negotiation of such agreement.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsections (b) and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is

deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(e) **COMPUTATION OF CERTAIN PERIODS OF TIME.**—Each period of time described in subsection (c)(1) (A) and (E) and (2) of this section shall be computed without regard to—

(1) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 1104. COMPENSATION AUTHORITY.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133) is amended—
(1) by amending subsection (a) to read as follows:

“(a) Whenever—

“(1) any action taken under chapter 1 of title II or chapter 1 of title III; or

“(2) any judicial or administrative tariff reclassification that becomes final after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988;

increases or imposes any duty or other import restriction, the President—

“(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

“(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.”;

(2) by amending subsection (b)(2) by—

(A) striking out “section 109” and inserting “section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988”, and

(B) striking out “section 101” each place it appears and inserting “such section 1102(a)”;

(3) by striking out “section 101” in subsection (d) and inserting “section 1102 of the Omnibus Trade and Competitiveness Act of 1988”; and

(4) by adding at the end thereof the following new subsection:

“(e) The provisions of this section shall apply by reason of action taken under chapter 1 of title III only if the President determines that action authorized under this section is necessary or appropriate to meet the international obligations of the United States.”.

19 USC 2904.

SEC. 1105. TERMINATION AND RESERVATION AUTHORITY; RECIPROCAL NONDISCRIMINATORY TREATMENT.

(a) **IN GENERAL.**—For purposes of applying sections 125, 126(a), and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 1102 shall be treated as an agreement entered into under section 101 or

102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 1102 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

RECIPROCAL NONDISCRIMINATORY TREATMENT.—

President of U.S.

(1) The President shall determine, before June 1, 1993, whether any major industrial country has failed to make concessions under trade agreements entered into under section 1102 (a) and (b) which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under section 1102 (a) and (b), for the commerce of such country in the United States.

(2) If the President determines under paragraph (1) that a major industrial country has not made concessions under trade agreements entered into under section 1102 (a) and (b) which provide substantially equivalent competitive opportunities for the commerce of the United States, the President shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(A) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under section 1102 (a) and (b) that have been made with respect to rates of duty or other import restrictions imposed by the United States, and

(B) legislation providing that any law necessary to carry out any trade agreement under section 1102 (a) or (b) not apply to such country.

(3) For purposes of this subsection, the term “major industrial country” means Canada, the European Communities, the individual member countries of the European Communities, Japan, and any other foreign country designated by the President for purposes of this subsection.

1106. ACCESSION OF STATE TRADING REGIMES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE. 19 USC 2905.

IN GENERAL.—Before any major foreign country accedes, after date of enactment of this Act, to the GATT the President shall determine—

President of U.S.

(1) whether state trading enterprises account for a significant share of—

(A) the exports of such major foreign country, or

(B) the goods of such major foreign country that are subject to competition from goods imported into such foreign country; and

(2) whether such state trading enterprises—

(A) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(B) are likely to result in such a burden, restriction, or effect.

(b) **EFFECTS OF AFFIRMATIVE DETERMINATION.**—If both of the determinations made under paragraphs (1) and (2) of subsection (a) with respect to a major foreign country are affirmative—

President of U.S.

(1) the President shall reserve the right of the United States to withhold extension of the application of the GATT, between the United States and such major foreign country, and

(2) the GATT shall not apply between the United States and such major foreign country until—

(A) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(i) will—

(I) make purchases which are not for the use of such foreign country, and

(II) make sales in international trade, in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales; or

(B) a bill submitted under subsection (c) which approves of the extension of the application of the GATT between the United States and such major foreign country is enacted into law.

(c) **EXPEDITED CONSIDERATION OF BILL TO APPROVE EXTENSION.**—

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974.

President of U.S.
Federal
Register,
publication.
19 USC 2906.

(d) **PUBLICATION.**—The President shall publish in the Federal Register each determination made under subsection (a).

SEC. 1107. DEFINITIONS AND CONFORMING AMENDMENTS.

(a) **DEFINITIONS.**—For purposes of this part:

(1) The term “distortion” includes, but is not limited to, a subsidy.

(2) The term “foreign country” includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term “GATT” means the General Agreement on Tariffs and Trade.

(4) The term “implementing bill” has the meaning given such term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(5) The term “international trade” includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term “state trading enterprise” means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(b) CONFORMING AMENDMENTS.—

(1) Section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended by striking out “section 102” and inserting “section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988”.

(2) Section 121 of the Trade Act of 1974 (19 U.S.C. 2131) is amended by striking out subsections (a), (b), and (c).

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 1111. HEARINGS AND ADVICE.

(a) ADVICE FROM ITC AND OTHER FEDERAL AGENCIES CONCERNING TRADE POLICY AND NEGOTIATIONS.—Sections 131 through 134, inclusive, of the Trade Act of 1974 (19 U.S.C. 2151-2154) are amended to read as follows:

“SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

19 USC 2151.

“(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

“(1) In connection with any proposed trade agreement under section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the ‘Commission’) with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

President of U.S.

“(2) In connection with any proposed trade agreement under section 1102 (b) or (c) of the Omnibus Trade and Competitive-

ness Act of 1988, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

Copyrights.
Patents and
trademarks.
Securities.
Consumer
protection.

“(b) **ADVICE TO PRESIDENT BY COMMISSION.**—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 1102(a)(3)(A).

“(c) **ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.**—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

“(d) **COMMISSION STEPS IN PREPARING ITS ADVICE TO THE PRESIDENT.**—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

“(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

Employment
and
unemployment.

“(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

Employment
and
unemployment.

“(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

Wages.
Consumer
protection.
Copyrights.
Patents and
trademarks.
Securities.

“(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor,

consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

“(e) PUBLIC HEARING.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

“SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

President of U.S.
19 USC 2152.

“Before any trade agreement is entered into under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

“SEC. 133. PUBLIC HEARINGS.

19 USC 2153.

“(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

President of U.S.

Regulations.

“(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

“SEC. 134. PREREQUISITES FOR OFFERS.

19 USC 2154.

“(a) In any negotiation seeking an agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day

Copyrights.
Patents and
trademarks.

period provided for in that section, as appropriate, whichever first occurs.

President of U.S.

“(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

“(1) the Commission;

“(2) any advisory committee established under section 135; or

“(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.”.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

SEC. 1121. IMPLEMENTATION OF NAIROBI PROTOCOL.

(a) PURPOSE AND REFERENCE.—

(1) The purpose of this section is—

(A) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereafter referred to in this section as the “Nairobi Protocol”) to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; commonly known as the “Florence Agreement”);

(B) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 96 Stat. 2346-2349), the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-65, 80 Stat. 897 et seq.), and Public Law 89-634 (80 Stat. 879); and

(C) to continue the safeguard provisions concerning certain imported articles provided for in the Educational, Scientific, and Cultural Materials Importation Act of 1982.

(2) Whenever an amendment or repeal in this section is expressed in terms of an amendment to, or repeal of, an item, headnote, Appendix, or other provision, the reference shall be considered to be made to an item, headnote, Appendix, or other provision of the Tariff Schedules of the United States.

(b) REPEAL OF THE EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT OF 1982.—The Educational, Scientific, and Cultural Materials Importation Act of 1982 is hereby repealed.

(c) TREATMENT OF PRINTED MATTER AND CERTAIN OTHER ARTICLES.—

(1) Items 270.45 and 270.50 are redesignated as items 270.46 and 270.48, respectively.

(2) Part 5 of schedule 2 is amended—

(A) by inserting in numerical sequence the following new item:

270.90	Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character.....	Free	Free	"
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and

(B) by striking out items 273.45, 273.50, and 273.55 and the superior heading thereto and inserting in lieu thereof the following new item having the same degree of indentation as item 273.35:

273.52	Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions	Free	Free	"
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(3)(A) The superior heading to items 274.50, 274.60, 274.65, and 274.70 is amended by inserting "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)" after "Photographs".

(B) Part 5 of schedule 2 is amended by inserting in numerical sequence the following new items under the superior heading "Printed not over 20 years at time of importation:", and before, and with the same degree of indentation as, "Lithographs on paper":

274.55	Loose illustrations, reproduction proofs or reproduction films used for the production of books	Free	Free	
274.56	Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media	Free	Free	"

(C) Subpart D of part 5 of schedule 7 is amended by striking out item 735.20 and inserting in lieu thereof the following new items with a superior heading having the same degree of indentation as item 735.18:

735.21	Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for: Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media	Free	Free	
735.24	Other	5.52% ad val.	40% ad val.	"

(D) Item 737.52 is amended by inserting “(whether or not in the form of microfilm, microfiches, or similar film media)” after “Toy books”.

(E) Item 830.00 is amended by inserting “; official government publications in the form of microfilm, microfiches, or similar film media” after “not developed”.

(F) Item 840.00 is amended by inserting “, whether or not in the form of microfilm, microfiches, or similar film media” after “documents”.

(d) VISUAL AND AUDITORY MATERIAL.—

(1) Headnote 1 to part 7 of schedule 8 is amended to read as follows:

“1. (a) No article shall be exempted from duty under item 870.30 unless either—

“(i) a Federal agency (or agencies) designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

“(ii) such article—

“(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

“(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is, or may be, profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

“(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.”.

(2) Item 870.30 is amended—

(A) by inserting “(except toy models)” after “models”, and

(B) by striking out “headnote 1” and inserting in lieu thereof “headnote 1(a)”.

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading at the same degree of indentation as item 870.30:

“	Articles determined to be visual or auditory materi- als in accordance with headnote 1 of this part:				
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870.32	Holograms for laser projection; microfilm, microfiches, and similar articles	Free	Free	
870.33	Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed	Free	Free	
870.34	Sound recordings, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles	Free	Free	
870.35	Patterns and wall charts; globes; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing	Free	Free	"

(e) **TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.**—Part 4 of schedule 8 is amended by inserting in numerical sequence the following new item having the same degree of indentation as item 852.20:

"	851.67	Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60	Free	Free	"
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(f) **ARTICLES FOR THE BLIND AND FOR OTHER HANDICAPPED PERSONS.**—

(1) Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(2) The headnotes to part 7 of schedule 8 are amended—
(A) by adding at the end thereof the following new headnote:

"4. (a) For purposes of items 870.65, 870.66, and 870.67, the term 'blind or other physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) Items 870.65, 870.66, and 870.67 do not cover—

"(i) articles for acute or transient disability;

“(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

“(iii) therapeutic and diagnostic articles; or

“(iv) medicine or drugs.”.

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading having the same degree of indentation as item 870.45:

“		Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons: Articles for the blind: 870.65 Books, music, and pamphlets, in raised print, used exclusively by or for them..... 870.66 Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively..... 870.67 Other.....	Free Free Free		Free Free Free
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(g) **AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT.—**

(1)(A) The President may proclaim changes in the Tariff Schedules of the United States to narrow the scope of, place conditions upon, or otherwise eliminate the duty-free treatment accorded by reason of the amendments made by subsection (e) (f) with respect to any type of article the duty-free treatment of which has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, if the effect of such change is consistent with the provisions of the relevant annexes of the Flores Agreement or the Nairobi Protocol.

(B) If the President proclaims changes to the Tariff Schedules of the United States under subparagraph (A), the rate of duty thereafter applicable to any article which is—

(i) affected by such action, and

(ii) imported from any source,

shall be the rate determined and proclaimed by the President to be the rate which would then be applicable to such article from such source if this section had not been enacted.

(2) If the President determines that any duty-free treatment which is no longer in effect because of action taken under paragraph (1) could be restored, in whole or in part, without the resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Tariff Schedules of the United States to resume such duty-free treatment.

(3) Before taking any action under paragraph (1) or (2), the President shall afford an opportunity for interested Government agencies and private persons to present their views concerning the proposed action.

(4) Any action in effect or any proceeding in progress under section 166 of the Educational, Scientific, and Cultural Materials Importation Act of 1982 on the day that Act is repealed shall be considered as an action or proceeding under this section and shall be continued or resumed under this section.

(h) AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED BY REASON OF SUBSECTION (d).—

(1) If the President determines such action to be in the interest of the United States, the President may proclaim changes to the Tariff Schedules of the United States in order to remove or modify any condition or restriction imposed under headnote 1 to part 7 of schedule 8 (as amended by subsection (d) of this section) of such Schedules, on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i) to part 7 of schedule 8) of such Schedules, in order to implement the provisions of annex C-1 of the Nairobi Protocol.

(2) Any change to the Tariff Schedules of the United States proclaimed under paragraph (1) shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date on which the President proclaims such change.

Effective date.

(i) **STATISTICAL INFORMATION.**—In order to implement effectively the provisions of subsection (g), the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by subsection (c) apply, in such detail and for such period as the Secretaries consider necessary.

(j) EFFECTIVE DATE.—

(1) The provisions of this section, and the repeal and amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the later of—

(A) October 1, 1988, or

(B) the date that is 15 days after the deposit of the United States ratification of the Nairobi Protocol.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer on or before the date that is 180 days after the later of the dates described in subparagraphs (A) and (B) of paragraph (1), any entry, or withdrawal from warehouse, of any article—

(A) which was made on or after August 12, 1985, and before such later date, and

(B) with respect to which there would have been no duty if the provisions of this section, or any amendments made by this section, applied to such entry or withdrawal, shall be liquidated or reliquidated as though such entry or withdrawal had been made on or after such later date.

SEC. 1122. IMPLEMENTATION OF UNITED STATES-EC AGREEMENT ON CITRUS AND PASTA.

(a) **PURPOSE.**—The purpose of this section is to provide for the implementation of tariff reductions agreed to by the United States in the Agreement between the European Communities and the

United States, concluded February 24, 1987, with respect to citrus and pasta.

(b) PROCLAMATION AUTHORITY.—

(1) The amendments made by subsection (c) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date occurring after September 1, 1988, that is proclaimed by the President as being appropriate to carry out the Agreement referred to in subsection (a).

President of U.S.

(2) The President is authorized at any time to modify or terminate by proclamation any provision of law enacted by the amendments made by subsection (c).

(3) The rates of duty in column numbered 1 of the Tariff Schedules of the United States that are enacted by the amendments made by subsection (c) shall be treated—

(A) as not having the status of statutory provisions enacted by the Congress; but

(B) as having been proclaimed by the President as being required to carry out a foreign trade agreement to which the United States is a party.

(c) AMENDMENTS TO TARIFF SCHEDULES.—

(1) Whenever in this subsection an amendment is expressed in terms of an amendment to a schedule, headnote, item, title, Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

(2) Subpart C of part 3 of schedule 1 is amended by striking out item 112.40 and inserting in lieu thereof the following item with a superior heading having the same degree of indentation as the article description in item 112.42:

“		Anchovies:			
	112.40	If entered in any calendar year before 3,000 metric tons of anchovies have been entered under this item in such calendar year..	3% ad val.	Free (A,E,I)	30% ad val.
	112.41	Other	6% ad val.	Free (A,E,I)	30% ad val.

(3)(A) Item 117.65 is amended by striking out “9% ad val” and inserting in lieu thereof “Free”.

(B) Item 117.67 is amended by striking out “12% ad val.” and inserting in lieu thereof “Free”.

(4) Subpart B of part 9 of Schedule 1 is amended by striking out item 147.29 and inserting in lieu thereof the following item with a superior heading having the same degree of indentation as the article description in item 147.30:

“		Mandarin, packed in airtight containers:			
	147.28	Satsuma, if entered in any calendar year before 40,000 metric tons of Satsuma oranges have been entered under this item in such calendar year..	Free	Free (A,E,I)	1¢ per lb.
	147.29	Other	0.2¢ per lb.	Free (A,E,I)	1¢ per lb.

(5) Subpart B of part 9 of Schedule 1 is amended—

(A) by striking out item 148.44 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.42:

“		Other:			
	148.43	In containers each holding not more than 0.3 gallon.....	20¢ per gal.	Free (E)	20¢ per gal.
		In containers each holding more than 0.3 gallon:			
	148.44	If entered in any calendar year before 4,400 metric tons of olives have been entered under this item in such calendar year.....	10¢ per gal.	Free (E)	20¢ per gal.
	148.45	Other	20¢ per gal.	Free (E)	20¢ per gal. ”;

(B) by striking out item 148.48 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.46:

“		Other:			
	148.47	If entered in any calendar year before 730 metric tons of olives have been entered under this item in such calendar year	15¢ per gal.	Free (E)	30¢ per gal.
	148.48	Other	30¢ per gal.	Free (E)	30¢ per gal. ”;

(C) by striking out “or stuffed” in item 148.50;

(D) by redesignating items 148.52, 148.54, and 148.56 as items 148.55, 148.56, and 148.57, respectively;

(E) by inserting after item 148.50 the following new items with a superior heading having the same degree of indentation as the article description in item 148.50:

“		Stuffed:			
		In containers each holding not more than 0.3 gallon:			
		Place Packed:			
	148.51	If entered in any calendar year before 2,700 metric tons of olives have been entered under this item in such calendar year	15¢ per gal.	Free (E)	30¢ per gal.
	148.52	Other	30¢ per gal.	Free (E)	30¢ per gal.
	148.53	Other	30¢ per gal.	Free (E)	30¢ per gal.

148.54	In containers each holding more than 0.3 gallon	30¢ per gal.	Free (E)	30¢ per gal.	”;
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(F) by striking out “5¢ per lb.” in item 148.55, as redesignated by paragraph (4), and inserting in lieu thereof “2.5¢ per lb.”; and

(G) by striking out item 148.57, as redesignated by paragraph (4), and inserting in lieu thereof the following new items with the superior heading having the same degree of indentation as the article description in item 148.40:

“	Otherwise prepared or preserved:				
148.57	If entered in any calendar year before 550 metric tons of olives have been entered under this item in such calendar year	2.5¢ per lb.	Free (E)	5¢ per lb.	
148.58	Other	5¢ per lb.	Free (E)	5¢ per lb.	”.

(6) Items 161.06 and 161.08 are each amended by striking out “16% ad val.” and inserting in lieu thereof “8% ad val.”.

(7) Item 161.71 is amended by striking out “2¢ per lb.” and inserting in lieu thereof “1.35¢ per lb.”.

(8) Item 167.15 is amended by striking out “3¢ per gal.” and inserting in lieu thereof “1.5¢ per gal.”.

(9)(A) Item 176.29 is amended by striking out “3.8¢ per lb. on contents and container” and inserting in lieu thereof “2.28¢ per lb. on contents and container.”.

(B) Item 176.30 is amended by striking out “2.6¢ per lb.” and inserting in lieu thereof “1.56¢ per lb.”.

(d) **REPORT.**—The Trade Representative shall include in the semi-annual report submitted under section 309(3) of the Trade Act of 1974 an assessment of whether the European Communities are in compliance with the agreement referred to in subsection (a).

SEC. 1123. EXTENSION OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1980.

(a) **EXTENSION.**—Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out “October 1, 1986” and inserting “October 1, 1989”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect January 1, 1987.

SEC. 1124. NEGOTIATIONS ON CURRENCY EXCHANGE RATES.

(a) **FINDINGS.**—The Congress finds that—

(1) the benefit of trade concessions can be adversely affected by misalignments in currency, and

(2) misalignments in currency caused by government policies intended to maintain an unfair trade advantage tend to nullify and impair trade concessions.

(b) **NEGOTIATIONS.**—Whenever, in the course of negotiating a trade agreement under this subtitle, the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations satisfies the criteria for initiating bilateral currency negotiations listed in section 3004(b) of this Act, the Secretary

19 USC 1356k
note.

22 USC 5304
note.

of the Treasury shall take action to initiate bilateral currency negotiations on an expedited basis with such foreign country.

SEC. 1125. REPORTS ON NEGOTIATIONS TO ELIMINATE WINE TRADE BARRIERS.

President of U.S.
19 USC 2804
note.

Before the close of the 13-month period beginning on the date of the enactment of this Act, the President shall update each report that the President submitted to the Committee on Ways and Means and the Committee on Finance under section 905(b) of the Wine Equity and Export Expansion Act of 1984 (19 U.S.C. 2804) and submit the updated report to both of such committees. Each updated report shall contain, with respect to the major wine trading country concerned—

(1) a description of each tariff or nontariff barrier to (or other distortion of) trade in United States wine of that country with respect to which the United States Trade Representative has carried out consultations since the report required under such section 905(b) was submitted;

(2) the status of the consultations described under paragraph (1); and

(3) information, explanations, and recommendations of the kind referred to in paragraph (1) (C), (D), and (E) of such section 905(b) that are based on developments (including the taking of relevant actions, if any, of a kind not contemplated at the time of the enactment of such 1984 Act) since the submission of the report required under such section.

Subtitle B—Implementation of the Harmonized Tariff Schedule

SEC. 1201. PURPOSES.

19 USC 3001.

The purposes of this subtitle are—

(1) to approve the International Convention on the Harmonized Commodity Description and Coding System;

(2) to implement in United States law the nomenclature established internationally by the Convention; and

(3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

SEC. 1202. DEFINITIONS.

19 USC 3002.

As used in this subtitle:

(1) The term “Commission” means the United States International Trade Commission.

(2) The term “Convention” means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term “Federal agency” means any establishment in the executive branch of the United States Government.

(5) The term “old Schedules” means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term “technical rectifications” means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

- (A) errors in spelling, numbering, or punctuation;
- (B) errors in indentation;
- (C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and
- (D) other clerical or typographical errors.

19 USC 3003.

SEC. 1203. CONGRESSIONAL APPROVAL OF UNITED STATES ACCESSION TO THE CONVENTION.

(a) **CONGRESSIONAL APPROVAL.**—The Congress approves the accession by the United States of America to the Convention.

(b) **ACCEPTANCE OF THE FINAL LEGAL TEXT OF THE CONVENTION BY THE PRESIDENT.**—The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

(c) **UNSPECIFIED PRIVATE REMEDIES NOT CREATED.**—Neither the entry into force with respect to the United States of the Convention nor the enactment of this subtitle may be construed as creating any private right of action or remedy for which provision is not explicitly made under this subtitle or under other laws of the United States.

(d) **TERMINATION.**—The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) do not apply to the Convention.

19 USC 3004.

SEC. 1204. ENACTMENT OF THE HARMONIZED TARIFF SCHEDULE.

19 USC prec.
1202 note.

(a) **IN GENERAL.**—The Tariff Act of 1930 is amended by striking out title I and inserting a new title I entitled “Title I—Harmonized Tariff Schedule of the United States” (hereinafter in this subtitle referred to as the “Harmonized Tariff Schedule”) which—

(1) consists of—

- (A) the General Notes;
- (B) the General Rules of Interpretation;
- (C) the Additional U.S. Rules of Interpretation;
- (D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and
- (E) the Chemical Appendix to the Harmonized Tariff Schedule;

all conforming to the nomenclature of the Convention and as set forth in Publication No. 2030 of the Commission entitled “Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes” and Supplement No. 1 thereto; but

(2) does not include the statistical annotations, notes, annexes, suffixes, check digits, units of quantity, and other matters formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), nor the table of contents, footnotes, index, and other matters inserted for ease of reference, that are included in such Publication No. 2030 or Supplement No. 1. thereto.

(b) **MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE.**—At the earliest practicable date after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, the President shall—

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(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1. thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 1202 note) to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

(i) statutes enacted,

(ii) executive actions taken, and

(iii) final judicial decisions rendered,

after January 1, 1988, and before the effective date of the Harmonized Tariff Schedule, and

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

(c) **STATUS OF THE HARMONIZED TARIFF SCHEDULE.**—

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this subtitle.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974).

(2) Neither the enactment of this subtitle nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the effective rate of duty.

(d) INTERIM INFORMATIONAL USE OF HARMONIZED TARIFF SCHEDULE CLASSIFICATIONS.—Each—

- (1) proclamation issued by the President;
- (2) public notice issued by the Commission or other Federal agency; and
- (3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency; during the period between the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 and the effective date of the Harmonized Tariff Schedule shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

19 USC 3005.

SEC. 1205. COMMISSION REVIEW OF, AND RECOMMENDATIONS REGARDING, THE HARMONIZED TARIFF SCHEDULE.

(a) **IN GENERAL.**—The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

- (1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;
- (2) to promote the uniform application of the Convention and particularly the Annex thereto;
- (3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;
- (4) to alleviate unnecessary administrative burdens; and
- (5) to make technical rectifications.

(b) **AGENCY AND PUBLIC VIEWS REGARDING RECOMMENDATIONS.**—In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

- (1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and
- (2) may provide for a public hearing.

(c) **SUBMISSION OF RECOMMENDATIONS.**—The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

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(d) **REQUIREMENTS REGARDING RECOMMENDATIONS.**—The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

(1) The modification must—

(A) be consistent with the Convention or any amendment thereto recommended for adoption;

(B) be consistent with sound nomenclature principles; and

(C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

SEC. 1206. PRESIDENTIAL ACTION ON COMMISSION RECOMMENDATIONS. 19 USC 3006.

(a) **IN GENERAL.**—The President may proclaim modifications, based on the recommendations by the Commission under section 1205, to the Harmonized Tariff Schedule if the President determines that the modifications—

(1) are in conformity with United States obligations under the Convention; and

(2) do not run counter to the national economic interest of the United States.

(b) **LAY-OVER PERIOD.**—

(1) The President may proclaim a modification under subsection (a) only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor.

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(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) **EFFECTIVE DATE OF MODIFICATIONS.**—Modifications proclaimed by the President under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 1207. PUBLICATION OF THE HARMONIZED TARIFF SCHEDULE.

19 USC 3007.

(a) **IN GENERAL.**—The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience—

(1) in the form of microfilm images; or

(2) in the form of electronic media.

(b) **CONTENT.**—Publications under subsection (a), in whatever format, shall contain—

(1) the then current Harmonized Tariff Schedule;

(2) statistical annotations and related statistical information formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)); and

(3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

Public
information.
19 USC 3008.

SEC. 1208. IMPORT AND EXPORT STATISTICS.

The Secretary of Commerce shall compile, and make publicly available, the import and export trade statistics of the United States. Such statistics shall be conformed to the nomenclature of the Convention.

19 USC 3009.

SEC. 1209. COORDINATION OF TRADE POLICY AND THE CONVENTION.

The United States Trade Representative is responsible for coordination of United States trade policy in relation to the Convention. Before formulating any United States position with respect to the Convention, including any proposed amendments thereto, the United States Trade Representative shall seek, and consider, information and advice from interested parties in the private sector (including a functional advisory committee) and from interested Federal agencies.

19 USC 3010.

SEC. 1210. UNITED STATES PARTICIPATION ON THE CUSTOMS COOPERATION COUNCIL REGARDING THE CONVENTION.

(a) PRINCIPAL UNITED STATES AGENCIES.—

(1) Subject to the policy direction of the Office of the United States Trade Representative under section 1209, the Department of the Treasury, the Department of Commerce, and the Commission shall, with respect to the activities of the Customs Cooperation Council relating to the Convention—

(A) be primarily responsible for formulating United States Government positions on technical and procedural issues; and

(B) represent the United States Government.

(2) The Department of Agriculture and other interested Federal agencies shall provide to the Department of the Treasury, the Department of Commerce, and the Commission technical advice and assistance relating to the functions referred to in paragraph (1).

(b) DEVELOPMENT OF TECHNICAL PROPOSALS.—

(1) In connection with responsibilities arising from the implementation of the Convention and under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) regarding United States programs for the development of adequate and comparable statistical information on merchandise trade, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall prepare technical proposals that are appropriate or required to assure that the United States contribution to the development of the Convention recognizes the needs of the United States business community for a Convention which reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices.

(2) In carrying out this subsection, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall—

(A) solicit and consider the views of interested parties in the private sector (including a functional advisory committee) and of interested Federal agencies;

(B) establish procedures for reviewing, and developing appropriate responses to, inquiries and complaints from

interested parties concerning articles produced in and exported from the United States; and

(C) where appropriate, establish procedures for—

(i) ensuring that the dispute settlement provisions and other relevant procedures available under the Convention are utilized to promote United States export interests, and

(ii) submitting classification questions to the Harmonized System Committee of the Customs Cooperation Council.

(c) **AVAILABILITY OF CUSTOMS COOPERATION COUNCIL PUBLICATIONS.**—As soon as practicable after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, and periodically thereafter as appropriate, the Commission shall see to the publication of—

(1) summary records of the Harmonized System Committee of the Customs Cooperation Council; and Records.

(2) subject to applicable copyright laws, the Explanatory Notes, Classification Opinions, and other instruments of the Customs Cooperation Council relating to the Convention.

C. 1211. TRANSITION TO THE HARMONIZED TARIFF SCHEDULE.

19 USC 3011.

a) EXISTING EXECUTIVE ACTIONS.—

(1) The appropriate officers of the United States Government shall take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule all proclamations, regulations, rulings, notices, findings, determinations, orders, recommendations, and other written actions that—

(A) are in effect on the day before the effective date of the Harmonized Tariff Schedule; and

(B) contain references to the tariff classification of articles under the old Schedules.

(2) Neither the repeal of the old Schedules, nor the failure of any officer of the United States Government to make the conforming changes required under paragraph (1), shall affect to any extent the validity or effect of the proclamation, regulation, ruling, notice, finding, determination, order, recommendation, or other action referred to in paragraph (1).

b) GENERALIZED SYSTEM OF PREFERENCES CONVERSION.—

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 503(a) and 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2463(a), 2464(c)(3)).

(2) In applying section 504(c)(1) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)) for calendar year 1989, the reference in such section to July 1 shall be treated as a reference to September 1.

(c) IMPORT RESTRICTIONS UNDER THE AGRICULTURAL ADJUSTMENT ACT.—

(1) Whenever the President determines that the conversion of an import restriction proclaimed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) from part 3 of the Appendix to the old Schedules to subchapter IV of chapter 99 of the Harmonized Tariff Schedule results in—

(A) an article that was previously subject to the restriction being excluded from the restriction; or

(B) an article not previously subject to the restriction being included within the restriction;

the President may proclaim changes in subchapter IV of chapter 99 of the Harmonized Tariff Schedule to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the old Schedules.

(2) Whenever the President determines that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules to Additional U.S. Note 2, chapter 17, of the Harmonized Tariff Schedule results in—

(A) an article that was previously covered by such headnote being excluded from coverage; or

(B) an article not previously covered by such headnote being included in coverage;

the President may proclaim changes in Additional U.S. Note 2, chapter 17 of the Harmonized Tariff Schedule to conform that note to the fullest extent possible to headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules.

(3) No change to the Harmonized Tariff Schedule may be proclaimed under paragraph (1) or (2) after June 30, 1990.

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(d) CERTAIN PROTESTS AND PETITIONS UNDER THE CUSTOMS LAW.—

(1)(A) This subtitle may not be considered to divest the courts of jurisdiction over—

(i) any protest filed under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514); or

(ii) any petition by an American manufacturer, producer, or wholesaler under section 516 of such Act (19 U.S.C. 1516); covering articles entered before the effective date of the Harmonized Tariff Schedule.

(B) Nothing in this subtitle shall affect the jurisdiction of the courts with respect to articles entered after the effective date of the Harmonized Tariff Schedule.

(2)(A) If any protest or petition referred to in paragraph (1)(A) is sustained in whole or in part by a final judicial decision, the entries subject to that protest or petition and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with such final judicial decision under the old Schedules.

(B) At the earliest practicable date after the effective date of the Harmonized Tariff Schedule, the Commission shall initiate an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) of those final judicial decisions referred to in subparagraph (A) that—

(i) are published during the 2-year period beginning on February 1, 1988; and

(ii) would have affected tariff treatment if they had been published during the period of the conversion of the old Schedules into the format of the Convention.

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No later than September 1, 1990, the Commission shall report the results of the investigation to the President, the Committee on Ways and Means, and the Committee on Finance, and shall recommend those changes to the Harmonized Tariff Schedule that the Commission would have recommended if the final decisions concerned had been made before the conversion into the format of the Convention occurred.

(3) The President shall review all changes recommended by the Commission under paragraph (2)(B) and shall, as soon as practicable, proclaim such of those changes, if any, which he decides are necessary or appropriate to conform such Schedule to the final judicial decisions. Any such change shall be effective with respect to—

(A) entries made on or after the date of such proclamation; and

(B) entries made on or after the effective date of the Harmonized Tariff Schedule if, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), application for liquidation or reliquidation thereof is made by the importer to the customs officer concerned within 180 days after the effective date of such proclamation.

(4) If any protest or petition referred to in paragraph (1)(A) is not sustained in whole or in part by a final judicial decision, the entries subject to that petition or protest and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with the final judicial decision under the old Schedules.

C. 1212. REFERENCE TO THE HARMONIZED TARIFF SCHEDULE.

19 USC 3012.

Any reference in any law to the “Tariff Schedules of the United States”, “the Tariff Schedules”, “such Schedules”, and any other general reference that clearly refers to the old Schedules shall be treated as a reference to the Harmonized Tariff Schedule.

C. 1213. TECHNICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) is amended by striking out “including modification,” and inserting “including removal, modification,”.

(b) TARIFF CLASSIFICATION ACT OF 1962.—Section 201 of the Tariff Classification Act of 1962 (76 Stat. 72, 74) is repealed.

19 USC prec.
1202 note.

(c) TARIFF ACT OF 1930.—Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by adding at the end thereof the following: “This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.”.

C. 1214. CONFORMING AMENDMENTS.

(a) CODIFIED TITLES.—

(1) Section 374(a)(3) of title 10 of the United States Code is amended by striking out “general headnote 2 of the Tariff Schedules of the United States” and inserting “general note 2 of the Harmonized Tariff Schedule of the United States”.

(2) Section 301 of title 13 of the United States Code is amended—

(A) by striking out “Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof,” in subsection (b) and inserting “Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof,”;

(B) by striking out “item in the Tariff Schedules of the United States Annotated” in subsection (e) and inserting “heading or subheading in the Harmonized Tariff Schedule

of the United States Annotated for Statistical Reporting Purposes"; and

(C) by amending subsection (f)—

(i) by striking out "item of the Tariff Schedules of the United States Annotated" and inserting "heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes", and

(ii) by striking out "under that item" each place it appears and inserting "under that heading or subheading".

(3) Section 1295(a)(7) of title 28 of the United States Code is amended by striking out "headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) TOBACCO ADJUSTMENT ACT OF 1983.—Section 213(a)(2) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(a)(2)) is amended by striking out "Schedule 1, Part 13, Tariff Schedules of the United States" and inserting "chapter 24 of the Harmonized Tariff Schedule of the United States".

(c) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (b) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States"; and

(2) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (c)(2) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(d) CONSUMER PRODUCT SAFETY ACT.—Section 15(d) and section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2064(d) and 2066(a)) are each amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(e) TOXIC SUBSTANCES CONTROL ACT.—

(1) Section 3(7) of the Toxic Substances Control Act (15 U.S.C. 2602(7)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 13(a)(1) of such Act (15 U.S.C. 2612(a)(1)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(f) EMERGENCY WETLANDS RESOURCES ACT OF 1986.—Section 203 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3912) is amended by striking out "subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "chapter 93 of the Harmonized Tariff Schedule of the United States".

(g) COBRA OF 1985.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) by striking out "schedule 8 of the Tariff Schedules of the United States" in subsection (a)(9)(A) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "General Headnote 3(e)(vi) or (vii)" in subsection (a)(9)(C) and inserting "general note 3(c)(v)"; and

(3) by striking out “headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States” in subsection (c)(3) and inserting “general note 2 of the Harmonized Tariff Schedule of the United States”.

TARIFF ACT OF 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 312(f) (19 U.S.C. 1312(f)) is amended—

(A) by amending paragraph (1)—

(i) by striking out “schedule 6, part 1, of the Tariff Schedules of the United States,” and inserting “chapter 26 of the Harmonized Tariff Schedule of the United States,”;

(ii) by striking out “schedule 6, part 2, of such schedules,” and inserting “chapters 71 through 83 of the Harmonized Tariff Schedule of the United States,”; and

(iii) by striking out the quotation marks surrounding “metal waste and scrap” and “unwrought metal”;

(B) by amending paragraph (2)(A)—

(i) by striking out “part 2 of schedule 6” and inserting “chapters 71 through 83 of the Harmonized Tariff Schedule of the United States”;

(ii) by striking out “part 1 of schedule 6” and inserting “chapter 26 of the Harmonized Tariff Schedule of the United States”; and

(iii) by striking out the quotation marks surrounding “unwrought metal”; and

(C) by amending paragraph (3) by striking out “as defined in part 1 of schedule 6” and inserting “of chapter 26 of the Harmonized Tariff Schedule of the United States”.

(2) Section 321(a)(2)(B) (19 U.S.C. 1321(a)(2)(B)) is amended by striking out “item 812.25 or 813.31” and inserting “subheading 9804.00.30 or 9804.00.70”.

(3) Section 337(j) (19 U.S.C. 1337(j)) is amended by striking out “general headnote 2 of the Tariff Schedules of the United States” and inserting “general note 2 of the Harmonized Tariff Schedule of the United States”.

(4) Section 466(f) (19 U.S.C. 1466(f)) is amended by striking out “headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States” and inserting “general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States”.

(5) Section 498(a)(1) (19 U.S.C. 1498(a)(1)) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting the following:

“(A) chapters 50 through 63;

“(B) chapters 39 through 43, 61 through 65, 67 and 95; and

“(C) subchapters III and IV of chapter 99;” and

(B) by striking out “of the Tariff Schedules of the United States,” and inserting “of the Harmonized Tariff Schedule of the United States,”.

AUTOMOTIVE PRODUCTS TRADE ACT OF 1965.—Section 201 (a) and (b) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2011 (a) and (b)) are each amended by striking out “Tariff Schedules of the United States” and inserting “Harmonized Tariff Schedule of the United States”.

TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(1) Section 128(b) (19 U.S.C. 2138(b)) is amended to read as follows:

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“(b) The President shall exercise his authority under subsection (a) of this section only with respect to the following subheadings listed in the Harmonized Tariff Schedule of the United States—

“(1) transistors (provided for in subheadings 8541.21.00, 8541.29.00, and 8541.40.70);

“(2) diodes and rectifiers (provided for in subheadings 8541.10.00, 8541.30.00, and 8541.40.60);

“(3) monolithic integrated circuits (provided for in subheadings 8542.11.00 and 8542.19.00);

“(4) other integrated circuits (provided for in subheadings 8542.20.00);

“(5) other components (provided for in subheading 8541.50.00);

“(6) parts of semiconductors (provided for in subheadings 8541.90.00 and 8542.90.00); and

“(7) units of automatic data processing machines (provided for in subheadings 8471.92.20, 8471.92.30, 8471.92.70, 8471.92.80, 8471.93.10, 8471.93.15, 8471.93.30, 8471.93.50, 8471.99.15, and 8471.99.60) and parts (provided for in subheading 8473.30.40), and the foregoing not incorporating a cathode ray tube.”.

(2) Section 203(f) (19 U.S.C. 2253(f)) is amended—

(A) by striking out “item 806.30 or 807.00 of the Tariff Schedules of the United States” in paragraph (1) and inserting “subheadings 9802.00.60 or 9802.00.80 of the Harmonized Tariff Schedule of the United States”; and

(B) by striking out “item 806.30 or item 807.00” in paragraph (3) and inserting “subheading 9802.00.60 or subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States”.

(3) Section 404(c) (19 U.S.C. 2434(c)) is amended by striking out “Tariff Schedules for the United States” and inserting “Harmonized Tariff Schedule of the United States”.

(4) Section 407(c)(3) and section 604 (19 U.S.C. 2437(c)(3) and 2483) are each amended by striking out “Tariff Schedules of the United States” and inserting “Harmonized Tariff Schedule of the United States”.

(5) Section 601(7) (19 U.S.C. 2481(7)) is amended by striking out “schedules 1 through 7 of the Tariff Schedules of the United States” and inserting “chapters 1 through 97 of the Harmonized Tariff Schedule of the United States”.

(k) TRADE AGREEMENTS ACT OF 1979.—Section 1102(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2581(b)(3)) is amended by striking out “headnotes of the Tariff Schedules of the United States” and inserting “notes of the Harmonized Tariff Schedule of the United States”.

(l) ACT OF MARCH 2, 1897.—Section 1 of the Act of March 2, 1897 (29 Stat. 604) (21 U.S.C. 41) is amended by striking out “Tariff Schedules of the United States” and inserting “Harmonized Tariff Schedule of the United States”.

(m) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1001(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 951(a)(2)) is amended by striking out “general headnote 2 of the Tariff Schedules of the United States” and inserting “general headnote 2 of the Harmonized Tariff Schedule of the United States”.

(n) COMPREHENSIVE ANTI-APARTHEID ACT OF 1986.—Section 3090 of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 50590)

mended by striking out "item 812.10 or 813.10 of the Tariff Schedules of the United States" and inserting "subheading 14.00.20 or 9804.00.45 of the Harmonized Tariff Schedule of the United States".

(C) STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.—Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended by striking out "general headnote 3(d) of Tariff Schedules of the United States" and inserting "general headnote 3(b) of the Harmonized Tariff Schedule of the United States".

(D) INTERNAL REVENUE CODE OF 1986.—

(1) Section 7652(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 7652(e)(3)) is amended by striking out "item 169.13 or 169.14 of the Tariff Schedules of the United States" and inserting "subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States".

(2) Section 9504(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(1)(B)) is amended—

(A) by striking out "subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "heading 9507 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "subpart D of part 6 of schedule 6 of such Schedules" and inserting "chapter 89 of the Harmonized Tariff Schedule of the United States".

(E) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—The Caribbean Basin Economic Recovery Act is amended as follows:

(1) Section 212(a)(1)(C) (19 U.S.C. 2702(a)(1)(C)) is amended by striking out "TSUS" means Tariff Schedules of the United States" and inserting "HTS" means Harmonized Tariff Schedule of the United States".

(2) Section 213 (19 U.S.C. 2703) is amended as follows:

(A) Subsection (b) is amended—

(i) by striking out "part 10 of schedule 4 of the TSUS" in paragraph (4) and inserting "headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "TSUS" in paragraph (5) and inserting "HTS".

(B) Subsection (c) is amended—

(i) by striking out "items 155.20 and 155.30 of the TSUS" in paragraph (1)(A)(i) and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "subpart B of part 2 of schedule 1 of the TSUS" in paragraph (1)(A)(ii) and inserting "chapters 2 and 16 of the Harmonized Tariff Schedule of the United States".

(C) Subsection (d) is amended by striking out "items 155.20 and 155.30 of the TSUS" and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States".

(D) Subsection (f)(5) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS,";

(ii) by striking out “items 135.10 through 138.46 of the TSUS” in subparagraph (B) and inserting “headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS”;

(iii) by striking out subparagraph (C);

(iv) by redesignating subparagraph (D) as subparagraph (C) and by striking out “items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS” in such redesignated subparagraph and inserting “subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, sourrops and sweetsops of subheading 0810.90.40) of the HTS”;

(v) by striking out subparagraph (E); and

(vi) by redesignating subparagraph (F) as subparagraph (E) and by striking out “items 165.25 and 165.35 of the TSUS” in such redesignated subparagraph and inserting “subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS”.

(r) **ACT RELATING TO REFORESTATION TRUST FUND.**—Section 303(b)(1) of the Act of October 14, 1980 (16 U.S.C. 1606a(b)(1)) is amended to read as follows:

“(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.”.

(s) **TRADE AND TARIFF ACT OF 1984.**—The Trade and Tariff Act of 1984 (Public Law 98–573) is amended as follows:

(1) Section 231(a)(1) is amended by striking out “Tariff Schedules of the United States” and inserting “Harmonized Tariff Schedule of the United States”.

(2) Section 239 is amended by striking out “headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States” and inserting “U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States”.

(3) Section 240 is amended—

(A) by striking out “headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States” in subsection (a)(1)(A) and inserting “U.S. note 6(a) to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States”; and

(B) by striking out “headnote 1 of part 4 of schedule 8” in subsection (e) and inserting “U.S. note 1 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States”.

(4) Section 404(e) is amended—

(A) by amending paragraphs (1) and (2) to read as follows:

“(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202, hereinafter referred to as the ‘HTS’);

98 Stat. 2990.

98 Stat. 2994.

98 Stat. 2994.

19 USC 2112
note.

“(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;”;

(B) by striking out paragraphs (3), (4), and (5); and

(C) by striking out paragraph (6) and inserting the following:

“(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.”.

TRADE AGREEMENTS ACT OF 1979.—The Trade Agreements Act of 1979 (Public Law 96-39) is amended as follows:

(1) Section 701(c)(1) is amended to read as follows:

“(1) **QUOTA CHEESE.**—The term ‘quota cheese’ means the articles provided for in the following subheadings of the Harmonized Tariff Schedule of the United States:

19 USC 1202
note.

“(A) 0406.10.00 (except whey cheese, curd, and cheese, cheese substitutes for cheese mixtures containing: Roquefort, Stilton produced in the United Kingdom, Bryndza, Gjetost, Goya in original loaves, Gammelost and Nokkelost, cheese made from sheep’s and goat’s milk and soft ripened cow’s milk cheeses);

“(B) 0406.20.20 (except Stilton produced in the United Kingdom);

“(C) 0406.20.30;

“(D) 0406.20.35;

“(E) 0406.20.40;

“(F) 0406.20.50;

“(G) 0406.20.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep’s and goat’s milk and soft ripened cow’s milk cheeses);

“(H) 0406.30.10 (except Stilton produced in the United Kingdom);

“(I) 0406.30.20;

“(J) 0406.30.30;

“(K) 0406.30.40;

“(L) 0406.30.50;

“(M) 0406.30.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep’s and goat’s milk and soft ripened cow’s milk cheeses);

“(N) 0406.40.60 (except Stilton produced in the United Kingdom);

“(O) 0406.40.80 (except Stilton produced in the United Kingdom);

“(P) 0406.90.10;

“(Q) 0406.90.15;

“(R) 0406.90.30 (except Goya in original loaves);

“(S) 0406.90.35;

“(T) 0406.90.40;

“(U) 0406.90.45 (except Gammelost and Nokkelost);

“(V) 0406.90.65;

“(W) 0406.90.70; and

“(X) 0406.90.80 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep’s and goat’s milk and soft ripened cow’s milk cheeses).”.

19 USC 1202
note.

(2) Section 703 is amended—

(A) by striking out “item 950.15 of the Tariff Schedules of the United States” and inserting “subheading 9904.10.63 of the Harmonized Tariff Schedule of the United States”; and

(B) by striking out “item 950.16 of the Tariff Schedules of the United States” and inserting “subheading 9904.10.66 of the Harmonized Tariff Schedule of the United States”.

19 USC 1202
note.

(3) Section 855 is amended—

(A) by striking out “item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States” in subsection (a) and inserting “article provided for in subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States”; and

(B) by striking out “item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States” in subsection (b) and inserting “article as set forth in rate of duty column numbered 1 of subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States”.

(u) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 1202 note) is amended—

(1) by amending subsection (b)(2)—

(A) by striking out “Tariff Schedules of the United States” and inserting “Harmonized Tariff Schedule of the United States”,

(B) by striking out “item 106.10” in subparagraph (A) and inserting “subheadings 0201.10.00, 0201.20.60, 0201.30.60, 0202.10.00, 0202.20.60 and 0202.30.60”,

(C) by striking out “cattle” in subparagraph (A) and inserting “bovine”,

(D) by striking out “items 106.22 and 106.25” in subparagraph (B) and inserting “subheadings 0204.50.00, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40”, and

(E) by amending subparagraph (C) to read as follows: “(C) subheadings 0201.20.40, 0201.30.40, 0202.20.40, and 0202.30.40 (relating to processed meat of beef or veal other than high quality beef cuts).”;

(2) by striking out “items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules” in the sentence following subsection (c)(2) and inserting “subheadings 0102.90.20 and 0102.90.40 of the Harmonized Tariff Schedule of the United States”; and

(3) by striking out “item 107.61 of the Tariff Schedules of the United States” in subsection (f)(1) and inserting “subheadings 0201.20.20, 0201.30.20, 0202.20.20, and 0202.30.20 of the Harmonized Tariff Schedule of the United States”.

(v) NATIONAL WOOL ACT OF 1954.—Sections 704 and 705 of the National Wool Act of 1954 (7 U.S.C. 1783 and 1784) are each amended by striking out “all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended” and inserting “wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States”.

(w) AGRICULTURAL ACT OF 1949.—Section 103(f)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)(3)) is amended by striking out items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States” and inserting “subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States”.

C. 1215. NEGOTIATING AUTHORITY FOR CERTAIN ADP EQUIPMENT.

Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138(b)), as amended by section 1212(j)(1) of this Act, is further amended—

(1) by striking out “and” at the end of paragraph (6);

(2) by striking out “tube.” and inserting “tube; and” in paragraph (7); and

(3) by adding at the end thereof the following new paragraph:

“(8) Digital processing units for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20 (provided for in subheading 8471.91).”.

C. 1216. COMMISSION REPORT ON OPERATION OF SUBTITLE.

The Commission, in consultation with other appropriate Federal agencies, shall prepare, and submit to the Congress and to the President, a report regarding the operation of this subtitle during a 12-month period commencing on the effective date of the Harmonized Tariff Schedule. The report shall be submitted to the Congress and to the President before the close of the 6-month period beginning on the day after the last day of such 12-month period.

19 USC 3005
note.

C. 1217. EFFECTIVE DATES.

(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988.

(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. such date—

19 USC 3001
note.

(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 take effect and apply with respect to articles entered on or after such date; and

(2) sections 1204(c), 1211, and 1212 take effect.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RE- SPONSE TO CERTAIN FOREIGN TRADE PRA- CTICES

SEC. 1301. REVISION OF CHAPTER 1 OF TITLE III OF THE TRADE ACT OF 1974.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended to read as follows:

“CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CE- RTAIN FOREIGN TRADE PRACTICES

19 USC 2411.

“SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

“(a) MANDATORY ACTION.—

“(1) If the United States Trade Representative determines that a foreign country is acting in a manner inconsistent with the provisions of any trade agreement under section 304(a)(1) that—

“(A) the rights of the United States under any trade agreement are being denied; or

“(B) an act, policy, or practice of a foreign country

“(i) violates, or is inconsistent with, the provisions of any trade agreement, or

“(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice.

“(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

“(A) the Contracting Parties to the General Agreement on Tariffs and Trade have determined, a panel of experts has reported to the Contracting Parties, or a ruling issued under the formal dispute settlement proceeding provided for under any other trade agreement finds, that—

“(i) the rights of the United States under a trade agreement are not being denied, or

“(ii) the act, policy, or practice—

“(I) is not a violation of, or inconsistent with, the rights of the United States, or

“(II) does not deny, nullify, or impair benefits accruing to the United States under any trade agreement;

“(B) the Trade Representative finds that—

“(i) the foreign country is taking satisfactory measures to grant the rights of the United States under the trade agreement,

“(ii) the foreign country has—

“(I) agreed to eliminate or phase out the act, policy, or practice, or

“(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

“(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

“(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this chapter, or

“(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

“(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

“(b) **DISCRETIONARY ACTION.**—If the Trade Representative determines under section 304(a)(1) that—

“(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

“(2) action by the United States is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under subsection (c), subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.

“(c) **SCOPE OF AUTHORITY.**—

“(1) For purposes of carrying out the provisions of subsection (a) or (b), the Trade Representative is authorized to—

“(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

“(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate; or

“(C) enter into binding agreements with such foreign country that commit such foreign country to—

“(i) eliminate, or phase out, the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b),

“(ii) eliminate any burden or restriction on United States commerce resulting from such act, policy, or practice, or

“(iii) provide the United States with compensatory trade benefits that—

“(I) are satisfactory to the Trade Representative, and

“(II) meet the requirements of paragraph (4).

“(2)(A) Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in paragraph (1), the Trade Representative may, for purposes of carrying out the provisions of subsection (a) or (b)—

“(i) restrict, in the manner and to the extent the Trade Representative determines appropriate, the terms and conditions of any such authorization, or

“(ii) deny the issuance of any such authorization.

“(B) Actions described in subparagraph (A) may only be taken under this section with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

“(i) a petition is filed under section 302(a), or

“(ii) a determination to initiate an investigation is made by the Trade Representative under section 302(b).

“(C) Before the Trade Representative takes any action under this section involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

“(3) The actions the Trade Representative is authorized to take under subsection (a) or (b) may be taken against any goods or economic sector—

“(A) on a nondiscriminatory basis or solely against the foreign country described in such subsection, and

“(B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice that is the subject of such action.

“(4) Any trade agreement described in paragraph (1)(C)(iii) shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

“(A) the provision of such trade benefits is not feasible, or

“(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

“(5) In taking actions under subsection (a) or (b), the Trade Representative shall—

“(A) give preference to the imposition of duties over the imposition of other import restrictions, and

“(B) if an import restriction other than a duty is imposed, consider substituting, on an incremental basis, an equivalent duty for such other import restriction.

“(6) Any action taken by the Trade Representative under this section with respect to export targeting shall, to the extent

possible, reflect the full benefit level of the export targeting to the beneficiary over the period during which the action taken has an effect.

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

“(1) The term “commerce” includes, but is not limited to—

“(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

“(B) foreign direct investment by United States persons with implications for trade in goods or services.

“(2) An act, policy, or practice of a foreign country that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

Maritime
affairs.

“(3)(A) An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

“(B) Acts, policies, and practices that are unreasonable include, but are not limited to, any act, policy, or practice, or any combination of acts, policies, or practices, which—

“(i) denies fair and equitable—

“(I) opportunities for the establishment of an enterprise,

“(II) provision of adequate and effective protection of intellectual property rights, or

Copyrights.
Patents and
trademarks.

“(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms,

“(ii) constitutes export targeting, or

“(iii) constitutes a persistent pattern of conduct that—

“(I) denies workers the right of association,

“(II) denies workers the right to organize and bargain collectively,

“(III) permits any form of forced or compulsory labor,

“(IV) fails to provide a minimum age for the employment of children, or

Children and
youth.

“(V) fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers.

Wages.
Safety.

“(C)(i) Acts, policies, and practices of a foreign country described in subparagraph (B)(iii) shall not be treated as being unreasonable if the Trade Representative determines that—

“(I) the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing throughout the foreign country (including any designated zone within the foreign country) the rights and other standards described in the subclauses of subparagraph (B)(iii), or

Federal
Register,
publication.

"(I) such acts, policies, and practices are not inconsistent with the level of economic development of the foreign country.

"(ii) The Trade Representative shall publish in the Federal Register any determination made under clause (i), together with a description of the facts on which such determination is based.

"(D) For purposes of determining whether any act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign nationals and firms shall be taken into account, to the extent appropriate.

"(E) The term 'export targeting' means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise.

"(4)(A) An act, policy, or practice is unjustifiable if the act, policy, or practice is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights.

"(5) Acts, policies, and practices that are discriminatory include, when appropriate, any act, policy, and practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

"(7) The term 'foreign country' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

"(8) The term 'Trade Representative' means the United States Trade Representative.

"(9) The term 'interested persons', only for purposes of sections 302(a)(4)(B), 304(b)(1)(A), 306(c)(2), and 307(a)(2), includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by actions taken under subsection (a) or (b).

Copyrights.
Patents and
trademarks.

19 USC 2412.

"SEC. 302. INITIATION OF INVESTIGATIONS.

"(a) PETITIONS.—

"(1) Any interested person may file a petition with the Trade Representative requesting that action be taken under section 301 and setting forth the allegations in support of the request.

"(2) The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 45 days after the date on which the Trade Representative received the petition, shall determine whether to initiate an investigation.

“(3) If the Trade Representative determines not to initiate an investigation with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

Federal
Register,
publication.

“(4) If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade Representative shall initiate an investigation regarding the issues raised in the petition. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

Federal
Register,
publication.

“(A) within the 30-day period beginning on the date of the affirmative determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition, or

“(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

(b) INITIATION OF INVESTIGATION BY MEANS OTHER THAN PETITION.—

“(1)(A) If the Trade Representative determines that an investigation should be initiated under this chapter with respect to any matter in order to determine whether the matter is actionable under section 301, the Trade Representative shall publish such determination in the Federal Register and shall initiate such investigation.

Federal
Register,
publication.

“(B) The Trade Representative shall, before making any determination under subparagraph (A), consult with appropriate committees established pursuant to section 135.

“(2)(A) By no later than the date that is 30 days after the date on which a country is identified under section 182(a)(2), the Trade Representative shall initiate an investigation under this chapter with respect to any act, policy, or practice of that country that—

“(i) was the basis for such identification, and

“(ii) is not at that time the subject of any other investigation or action under this chapter.

“(B) The Trade Representative is not required under subparagraph (A) to initiate an investigation under this chapter with respect to any act, policy, or practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to United States economic interests.

“(C) If the Trade Representative makes a determination under subparagraph (B) not to initiate an investigation, the Trade Representative shall submit to the Congress a written report setting forth, in detail—

“(i) the reasons for the determination, and

“(ii) the United States economic interests that would be adversely affected by the investigation.

“(D) The Trade Representative shall, from time to time, consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officers of the Federal Government, during any investigation initiated under this chapter by reason of subparagraph (A).

“(c) **DISCRETION.**—In determining whether to initiate an investigation under subsection (a) or (b) of any act, policy, or practice that is enumerated in any provision of section 301(d), the Trade Representative shall have discretion to determine whether action under section 301 would be effective in addressing such act, policy, or practice.

19 USC 2413.

“**SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.**

“(a) **IN GENERAL.**—

“(1) On the date on which an investigation is initiated under section 302, the Trade Representative, on behalf of the United States, shall request consultations with the foreign country concerned regarding the issues involved in such investigation.

“(2) If the investigation initiated under section 302 involves a trade agreement and a mutually acceptable resolution is not reached before the earlier of—

“(A) the close of the consultation period, if any, specified in the trade agreement, or

“(B) the 150th day after the day on which consultation was commenced,

the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement.

“(3) The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate committees established pursuant to section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

“(b) **DELAY OF REQUEST FOR CONSULTATIONS.**—

“(1) Notwithstanding the provisions of subsection (a)—

“(A) the United States Trade Representative may, after consulting with the petitioner (if any), delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

“(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

“(2) The Trade Representative shall—

“(A) publish notice of any delay under paragraph (1) in the Federal Register, and

“(B) report to Congress on the reasons for such delay in the report required under section 309(a)(3).

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Register,
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Reports.

19 USC 2414.

“**SEC. 304. DETERMINATIONS BY THE TRADE REPRESENTATIVE.**

“(a) **IN GENERAL.**—

“(1) On the basis of the investigation initiated under section 302 and the consultations (and the proceedings, if applicable) under section 303, the Trade Representative shall—

“(A) determine whether—

“(i) the rights to which the United States is entitled under any trade agreement are being denied, or

“(ii) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 exists, and

“(B) if the determination made under subparagraph (A) is affirmative, determine what action, if any, the Trade Representative should take under subsection (a) or (b) of section 301.

“(2) The Trade Representative shall make the determinations required under paragraph (1) on or before—

“(A) in the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

“(i) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

“(ii) the date that is 18 months after the date on which the investigation is initiated, or

“(B) in all cases not described in subparagraph (A) or paragraph (3), the date that is 12 months after the date on which the investigation is initiated.

“(3)(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and the Trade Representative does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.

“(B) If the Trade Representative determines with respect to any investigation initiated by reason of section 302(b)(2) that—

“(i) complex or complicated issues are involved in the investigation that require additional time,

“(ii) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of intellectual property rights, or

“(iii) such foreign country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights,

the Trade Representative shall publish in the Federal Register notice of such determination and shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 9 months after the date on which such investigation is initiated.

“(4) In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the Trade Representative, within 15 days after the close of such dispute settlement period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum dispute settlement period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement at any stage.

“(b) CONSULTATION BEFORE DETERMINATIONS.—

“(1) Before making the determinations required under subsection (a)(1), the Trade Representative, unless expeditious action is required—

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Patents and
trademarks.

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publication.

Reports.

“(A) shall provide an opportunity (after giving not less than 30 days notice thereof) for the presentation of views by interested persons, including a public hearing if requested by any interested person,

“(B) shall obtain advice from the appropriate committees established pursuant to section 135, and

“(C) may request the views of the United States International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to any goods or service.

“(2) If the Trade Representative does not comply with the requirements of subparagraphs (A) and (B) of paragraph (1) because expeditious action is required, the Trade Representative shall, after making the determinations under subsection (a)(1), comply with such subparagraphs.

“(c) PUBLICATION.—The Trade Representative shall publish in the Federal Register any determination made under subsection (a)(1), together with a description of the facts on which such determination is based.

Federal
Register,
publication.

19 USC 2415.

“SEC. 305. IMPLEMENTATION OF ACTIONS.

“(a) ACTIONS TO BE TAKEN UNDER SECTION 301.—

“(1) Except as provided in paragraph (2), the Trade Representative shall implement the action the Trade Representative determines under section 304(a)(1)(B) to take under section 301, subject to the specific direction, if any, of the President regarding any such action, by no later than the date that is 30 days after the date on which such determination is made.

“(2)(A) Except as otherwise provided in this paragraph, the Trade Representative may delay, by not more than 180 days, the implementation of any action that is to be taken under section 301—

“(i) if—

“(I) in the case of an investigation initiated under section 302(a), the petitioner requests a delay, or

“(II) in the case of an investigation initiated under section 302(b)(1) or to which section 304(a)(3)(B) applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

“(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

“(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(A) applies.

“(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(B) applies by more than 90 days.

“(b) ALTERNATIVE ACTIONS IN CERTAIN CASES OF EXPORT TARGETING.—

“(1) If the Trade Representative makes an affirmative determination under section 304(a)(1)(A) involving export targeting

by a foreign country and determines to take no action under section 301 with respect to such affirmation determination, the Trade Representative—

“(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

“(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

“(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting.

Reports.

“(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

“(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A), and

“(ii) by education or experience, are qualified to serve on the advisory panel.

“(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A).

Reports.

SEC. 306. MONITORING OF FOREIGN COMPLIANCE.

19 USC 2416.

“(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 301(a)(2)(B) that is entered into under subsection (a) or (b) of section 301, by a foreign country—

“(1) to enforce the rights of the United States under any trade agreement, or

“(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301.

“(b) FURTHER ACTION.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).

“(c) **CONSULTATIONS.**—Before making any determination under subsection (b), the Trade Representative shall—

“(1) consult with the petitioner, if any, involved in the initial investigation under this chapter and with representatives of the domestic industry concerned; and

“(2) provide an opportunity for the presentation of views by interested persons.

19 USC 2417.

“**SEC. 307. MODIFICATION AND TERMINATION OF ACTIONS.**

“(a) **IN GENERAL.**—

“(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if—

“(A) any of the conditions described in section 301(a)(2) exist,

“(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

“(C) such action is being taken under section 301(b) and is no longer appropriate.

“(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 301, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

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Register,
publication.

“(b) **NOTICE; REPORT TO CONGRESS.**—The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 301 and the reasons therefor.

“(c) **REVIEW OF NECESSITY.**—

“(1) If—

“(A) a particular action has been taken under section 301 during any 4-year period, and

“(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

Mail.

“(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

“(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 301, the Trade Representative shall conduct a review of—

“(A) the effectiveness in achieving the objectives of section 301 of—

"(i) such action, and

"(ii) other actions that could be taken (including actions against other products or services), and

"(B) the effects of such actions on the United States economy, including consumers.

Consumer
protection.

EC. 308. REQUEST FOR INFORMATION.

19 USC 2418.

"(a) **IN GENERAL.**—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

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trademarks.

"(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies;

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) **IF INFORMATION NOT AVAILABLE.**—If information that is requested by a person under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or
"(2) decline to request the information and inform the person in writing of the reasons for refusal.

"(c) **CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.**—

Classified
information.

"(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

EC. 309. ADMINISTRATION.

19 USC 2419.

"The Trade Representative shall—

Regulations.

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

"(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this chapter, including the reasons for any undue delays, and

Reports.

"(3) submit a report to the House of Representatives and the Senate semiannually describing—

"(A) the petitions filed and the determinations made (and reasons therefor) under section 302,

"(B) developments in, and the current status of, each investigation or proceeding under this chapter,

"(C) the actions taken, or the reasons for no action, by the Trade Representative under section 301 with respect to investigations conducted under this chapter, and

"(D) the commercial effects of actions taken under section 301."

(b) **CONFORMING AMENDMENT.**—The table of contents of the Trade Act of 1974 is amended by striking out the items relating to chapter 1 of title III and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO FOREIGN TRADE PRACTICES

"Sec. 301. Actions by United States Trade Representative.

"Sec. 302. Initiation of investigations.

"Sec. 303. Consultation upon initiation of investigation.

"Sec. 304. Determinations by the Trade Representative.

"Sec. 305. Implementation of actions.

"Sec. 306. Monitoring of foreign compliance.

"Sec. 307. Modification and termination of actions.

"Sec. 308. Request for information.

"Sec. 309. Administration."

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note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to—

(1) petitions filed, and investigations initiated, under section 302 of the Trade Act of 1974 on or after the date of the enactment of this Act; and

(2) petitions filed, and investigations initiated, before the date of enactment of this Act, if by that date no decision had been made under section 304 regarding the petition or investigation.

SEC. 1302. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) **IN GENERAL.**—Chapter 1 of title III of the Trade Act of 1974, amended by section 1301, is further amended by adding at the end thereof the following new section:

19 USC 2420.

"SEC. 310. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

"(a) **IDENTIFICATION.**—

"(1) By no later than the date that is 30 days after the date of the calendar year 1989, and also the date in calendar year 1990, which the report required under section 181(b) is submitted to the appropriate Congressional committees, the Trade Representative shall identify United States trade liberalization priorities, including—

"(A) priority practices, including major barriers and trade distorting practices, the elimination of which is likely to have the most significant potential to increase

United States exports, either directly or through the establishment of a beneficial precedent;

"(B) priority foreign countries that, on the basis of such report, satisfy the criteria in paragraph (2);

"(C) estimate the total amount by which United States exports of goods and services to each foreign country identified under subparagraph (B) would have increased during the preceding calendar year if the priority practices of such country identified under subparagraph (A) did not exist; and

"(D) submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a report which lists—

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publication.

"(i) the priority foreign countries identified under subparagraph (B),

"(ii) the priority practices identified under subparagraph (A) with respect to each of such priority foreign countries, and

"(iii) the amount estimated under subparagraph (C) with respect to each of such priority foreign countries.

"(2) In identifying priority foreign countries under paragraph (1)(B), the Trade Representative shall take into account—

"(A) the number and pervasiveness of the acts, policies, and practices described in section 181(a)(1)(A), and

"(B) the level of United States exports of goods and services that would be reasonably expected from full implementation of existing trade agreements to which that foreign country is a party, based on the international competitive position and export potential of such products and services.

"(3) In identifying priority practices under paragraph (1)(A), the Trade Representative shall take into account—

"(A) the international competitive position and export potential of United States products and services,

"(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value, and

"(C) the measurable medium-term and long-term implications of government procurement commitments to United States exporters.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate Congressional committees under subsection (a)(1)(D), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of those priority practices identified in such report by reason of subsection (a)(1)(D) for each of the priority foreign countries. The Trade Representative may initiate investigations under section 302(b)(1) with respect to all other priority practices identified under subsection (a)(1)(A).

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—

"(1) In the consultations with a priority foreign country identified under subsection (a)(1) that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement which provides for—

“(A) the elimination of, or compensation for, the priority practices identified under subsection (a)(1)(A) by no later than the close of the 3-year period beginning on the date on which such investigation is initiated, and

“(B) the reduction of such practices over a 3-year period with the expectation that United States exports to the foreign country will, as a result, increase incrementally during each year within such 3-year period.

“(2) Any investigation initiated under this chapter by reason of subsection (b) shall be suspended if an agreement described in subparagraphs (A) and (B) of paragraph (1) is entered into with the foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented.

“(3) If an agreement described in paragraph (1) is entered into with a foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented and the Trade Representative determines that the foreign country is not in compliance with such agreement, the Trade Representative shall continue the investigation that was suspended by reason of such agreement as though such investigation had not been suspended.

“(d) ANNUAL REPORTS.—

“(1) On the date on which the report the Trade Representative is required to submit under subsection (a)(1)(D) in calendar year 1990, and on the anniversary of such date in the succeeding calendar years, the Trade Representative shall submit a report which includes—

“(A) revised estimates of the total amount determined under subsection (a)(1)(C) for each priority foreign country that has been identified under subsection (a)(1)(B),

“(B) evidence that demonstrates, in the form of increased United States exports to each of such priority foreign countries during the previous calendar year—

“(i) in the case of a priority foreign country that has entered into an agreement described in subsection (c)(1), substantial progress during each year within the 3-year period described in subsection (c)(1)(A) toward the goal of eliminating the priority practices identified under subsection (a)(1)(A) by the close of such 3-year period, and

“(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (c)(1), the elimination of such practices, and

“(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each of such foreign countries.

“(2) The Trade Representative may exclude from the requirements of paragraph (1) in any calendar year beginning after 1993 any foreign country that has been identified under subsection (a)(1)(A) if the evidence submitted under paragraph (1)(B) in the 2 previous reports demonstrated that all the priority prac-

tices identified under subsection (a)(1)(A) with respect to such foreign country have been eliminated.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 309 the following new item:

“Sec. 310. Identification of trade liberalization priorities.”.

SEC. 1303. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Copyrights.
Patents and
trademarks.

(a) FINDINGS AND PURPOSE.—

(1) The Congress finds that—

(A) international protection of intellectual property rights is vital to the international competitiveness of United States persons that rely on protection of intellectual property rights; and

(B) the absence of adequate and effective protection of United States intellectual property rights, and the denial of fair and equitable market access, seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States.

(2) The purpose of this section is to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.

(b) **IN GENERAL.**—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

“SEC. 182. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION, OR MARKET ACCESS, FOR INTELLECTUAL PROPERTY RIGHTS.

19 USC 2242.

“(a) **IN GENERAL.**—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the “Trade Representative”) shall identify—

“(1) those foreign countries that—

“(A) deny adequate and effective protection of intellectual property rights, or

“(B) deny fair and equitable market access to United States persons that rely upon intellectual property protection, and

“(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

“(b) SPECIAL RULES FOR IDENTIFICATIONS.—

“(1) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

“(A) that have the most onerous or egregious acts, policies, or practices that—

“(i) deny adequate and effective intellectual property rights, or

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note.

“(ii) deny fair and equitable market access to United States persons that rely upon intellectual property protection,

“(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

“(C) that are not—

“(i) entering into good faith negotiations, or

“(ii) making significant progress in bilateral or multilateral negotiations,

to provide adequate and effective protection of intellectual property rights.

“(2) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

“(A) consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officers of the Federal Government, and

“(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

“(3) The Trade Representative may identify a foreign country under subsection (a)(1)(B) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

“(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

“(1) The Trade Representative may at any time—

“(A) revoke the identification of any foreign country as a priority foreign country under this section, or

“(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

“(2) The Trade Representative shall include in the semi-annual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

“(d) DEFINITIONS.—For purposes of this section—

“(1) The term ‘persons that rely upon intellectual property protection’ means persons involved in—

“(A) the creation, production or licensing of works of authorship (within the meaning of sections 102 and 103 of title 17, United States Code) that are copyrighted, or

“(B) the manufacture of products that are patented or for which there are process patents.

“(2) A foreign country denies adequate and effective protection of intellectual property rights if the foreign country denies adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such foreign country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works.

“(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright, patent, or process patent through the use of laws, procedures, practices, or regulations which—

“(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

“(B) constitute discriminatory nontariff trade barriers.

“(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of action under subsection (c).”.

Federal
Register,
publication.

(c) CONFORMING AMENDMENTS.—

(1) The heading for chapter 8 of title I of the Trade Act of 1974 is amended to read as follows:

**“CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS
AND CERTAIN UNFAIR TRADE ACTIONS”.**

(2) The table of contents for the Trade Act of 1974 is amended—

(A) by striking out the item relating to chapter 8 of title I and inserting in lieu thereof the following:

**CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE
PRACTICES”,**

and

(B) by inserting after the item relating to section 181 the following new item:

sec. 182. Identification of countries that deny adequate protection, or market access, for intellectual property rights.”.

SEC. 1304. AMENDMENTS TO THE NATIONAL TRADE ESTIMATES.

(a) IN GENERAL.—Section 181 of the Trade Act of 1974 (19 U.S.C. 41) is amended—

(1) by striking out “Not later than the date on which the initial report is required under subsection (b)(1),” in subsection (a)(1) and inserting in lieu thereof “For calendar year 1988, and for each succeeding calendar year,”

(2) by inserting “of each foreign country” after “or practices” in subsection (a)(1)(A),

(3) by striking out “and” at the end of subsection (a)(1)(A)(ii),

(4) by striking out the period at the end of subsection (a)(1)(B) and inserting in lieu thereof “; and”,

(5) by adding at the end of subsection (a)(1) the following new subparagraph:

“(C) make an estimate, if feasible, of—

“(i) the value of additional goods and services of the United States, and

“(ii) the value of additional foreign direct investment by United States persons,

that would have been exported to, or invested in, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.”,

(6) by striking out “and” at the end of subsection (a)(2)(C),

(7) by striking out the period at the end of subsection (a)(2)(D) and inserting in lieu thereof “; and”,

(8) by adding at the end of subsection (a)(2) the following new subparagraph:

“(E) the actual increase in—

“(i) the value of goods and services of the United States exported to, and

“(ii) the value of foreign direct investment made in, the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.”,

(9) by inserting “and with the assistance of the interagency advisory committee established under section 141(d)(2),” after “Trade Expansion Act of 1962,” in subsection (a)(1), and

(10) by striking out “ACTIONS CONCERNING” in the section heading and inserting in lieu thereof “ESTIMATES OF”.

(b) **SUBMISSION OF REPORT.**—Paragraph (1) of section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended to read as follows:

“(1) On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) for the calendar year preceding such calendar year (which shall be known as the ‘National Trade Estimate’) to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.”.

SEC. 1305. INVESTIGATION OF BARRIERS IN JAPAN TO CERTAIN UNITED STATES SERVICES.

The United States Trade Representative shall, within 90 days after the date of enactment of this Act, initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural, engineering, construction, and consulting services in Japan.

SEC. 1306. TRADE AND ECONOMIC RELATIONS WITH JAPAN.

(a) **FINDINGS.**—The Congress finds that—

(1) the United States is at a critical juncture in bilateral relations with Japan;

(2) the balance of trade between the United States and Japan has deteriorated steadily from an already large United States deficit of \$10,400,000,000 in 1980 to an unprecedented United States deficit of \$57,700,000,000 in 1987, a magnitude that is simply untenable;

(3) approximately 90 percent of the increase in total trade between the United States and Japan since 1980 has been in Japanese exports to the United States;

(4) United States exports to Japan have not significantly benefited from appreciation of the yen;

(5) the United States deficit in the balance of trade in manufactured goods is growing: in 1987 Japan exported \$82,500,000,000 of manufactured goods to the United States, while the United States exported \$14,600,000,000 in manufactured goods;

(6) Japan accounts for 49 percent of the worldwide deficit of the United States in the balance of trade in manufactured goods, calculated on a customs basis;

(7) our trade and economic relations with Japan are complex and cannot be effectively resolved through narrow sector-by-sector negotiations;

(8) a major problem between the United States and Japan is the absence of a political will in Japan to import; and

(9) meaningful negotiations must take place at the highest level, at a special summit of political leaders from both countries.

(b) SENSE OF THE CONGRESS.—

(1) It is the sense of the Congress that the President should propose to the Japanese Prime Minister that a special summit be held between the leaders of the United States and Japan for the purpose of—

(A) addressing trade and economic issues, and

(B) establishing—

(i) an agreement that provides objectives for improvement in trade and economic relations, and

(ii) targets for achieving these objectives.

(2) The delegation of the United States to the summit meeting described in subsection (a) should include—

(A) Members of Congress from both political parties, and

(B) appropriate officers of the executive branch of the United States Government.

(3) The delegation of Japan to the summit meeting described in subsection (a) should include—

(A) representatives of all political parties in Japan, and

(B) appropriate officers of the Government of Japan.

CC. 1307. SUPERCOMPUTER TRADE DISPUTE.

(a) FINDINGS.—The Congress finds that—

(1) United States manufacturers of supercomputers have encountered significant obstacles in selling supercomputers in Japan, particularly to government agencies and universities;

(2) Japanese government procurement policies and pricing practices have denied United States manufacturers access to the Japanese supercomputer market;

(3) it has been reported that officials of the Ministry of International Trade and Industry of Japan have told United States Government officials that Japanese government agencies and universities do not intend to purchase supercomputers from United States manufacturers, or take steps to improve access for United States manufacturers;

(4) the United States Government in August 1987 signed an agreement with the Government of Japan establishing procedures for the procurement of United States supercomputers by the Government of Japan;

(5) concern remains as to implementation of the procurement agreement by the Government of Japan;

(6) there have been allegations that Japanese manufacturers of supercomputers have been offering supercomputers at drastically discounted prices in the markets of the United States, Japan, and other countries;

(7) deep price discounting raises the concern that Japan's large-scale vertically integrated manufacturers of

supercomputers have targeted the supercomputer industry with the objective of eventual domination of the global computer market; and

(8) the supercomputer industry plays a central role in the technological competitiveness and national security of the United States.

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that the United States Trade Representative and other appropriate officials of the United States Government should—

(1) give the highest priority to concluding and enforcing agreements with the Government of Japan which achieve improved market access for United States manufacturers of supercomputers and end any predatory pricing activities of Japanese companies in the United States, Japan, and other countries; and

(2) continue to monitor the efforts of United States manufacturers of supercomputers to gain access to the Japanese market, recognizing that the Government of Japan may continue to manipulate the government procurement process to maintain the market dominance of Japanese manufacturers.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 1311. REFERENCE TO TITLE VII OF THE TARIFF ACT OF 1930.

Unless otherwise provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a subtitle, section, subsection, or other provision, the reference shall be considered to be made to a subtitle, section, subsection, or other provision of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 1312. ACTIONABLE DOMESTIC SUBSIDIES.

Paragraph (5) of section 771 (19 U.S.C. 1677(5)) is amended to read as follows:

“(5) SUBSIDY.—

“(A) IN GENERAL.—The term ‘subsidy’ has the same meaning as the term ‘bounty or grant’ as that term is used in section 303, and includes, but is not limited to, the following:

“(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

“(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

“(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

“(II) The provision of goods or services at preferential rates.

“(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

“(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

“(B) SPECIAL RULE.—In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.”.

1313. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

IN GENERAL.—Title VII of the Tariff Act of 1930 is amended by adding after section 771A (19 U.S.C. 1677-1) the following new section:

SEC. 771B. In the case of an agricultural product processed from raw agricultural product in which (1) the demand for the prior product is substantially dependent on the demand for the stage product, and (2) the processing operation adds only added value to the raw commodity, subsidies found to be provided to other producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.”. 19 USC 1677-2.

CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771A the following:

771B. Calculation of subsidies on certain processed agricultural products.”.

1314. REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.

Section 701 (19 U.S.C. 1671) is amended—

(1) by redesignating subsection (c) as subsection (d); and
(2) by inserting after subsection (b) the following new subsection:

(c) REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.—The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country—

“(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or

“(2) does not in fact honor such obligations.”.

1315. TREATMENT OF INTERNATIONAL CONSORTIA.

Section 701 (19 U.S.C. 1671) (as amended by section 1314) is further amended—

(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following new subsection:

“(d) TREATMENT OF INTERNATIONAL CONSORTIA.—For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.”.

SEC. 1316. DUMPING BY NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Subsection (c) of section 773 (19 U.S.C. 1677b) is amended to read as follows:

“(c) NONMARKET ECONOMY COUNTRIES.—

“(1) IN GENERAL.—If—

“(A) the merchandise under investigation is exported from a nonmarket economy country, and

“(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),

the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and the value of which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

“(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—

“(A) comparable to the merchandise under investigation and

“(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

“(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

“(A) hours of labor required,

“(B) quantities of raw materials employed,

“(C) amounts of energy and other utilities consumed, and

“(D) representative capital cost, including depreciation.

“(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

“(A) at a level of economic development comparable to that of the nonmarket economy country, and

“(B) significant producers of comparable merchandise.”.

NONMARKET ECONOMY COUNTRY DEFINED.—Section 771 (19 C. 1677) is amended by adding at the end thereof the following paragraph:

“(18) **NONMARKET ECONOMY COUNTRY.**—

“(A) **IN GENERAL.**—The term ‘nonmarket economy country’ means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

“(B) **FACTORS TO BE CONSIDERED.**—In making determinations under subparagraph (A) the administering authority shall take into account—

“(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;

“(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

“(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

“(iv) the extent of government ownership or control of the means of production,

“(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

“(vi) such other factors as the administering authority considers appropriate.

“(C) **DETERMINATION IN EFFECT.**—

“(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

“(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

“(D) **DETERMINATIONS NOT IN ISSUE.**—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

“(E) **COLLECTION OF INFORMATION.**—Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.”.

Classified
information.

SUSPENSION OF NONMARKET ECONOMY COUNTRY INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end thereof the following new subsection:

(1) SPECIAL RULE FOR NONMARKET ECONOMY COUNTRIES.—

"(1) **IN GENERAL.**—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that—

"(A) such agreement satisfies the requirements of subsection (d), and

"(B) will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

"(2) **FAILURE OF AGREEMENTS.**—If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply."

19 USC 1677k.

SEC. 1317. THIRD-COUNTRY DUMPING.

(a) **DEFINITIONS.**—For purposes of this section:

(1) The term "Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(2) The term "Agreement country" means a foreign country that has accepted the Agreement.

(3) The term "Trade Representative" means the United States Trade Representative.

(b) **PETITION BY DOMESTIC INDUSTRY.**—

(1) A domestic industry that produces a product that is like or directly competitive with merchandise produced by a foreign country (whether or not an Agreement country) may, if it has reason to believe that—

(A) such merchandise is being dumped in an Agreement country; and

(B) such domestic industry is being materially injured, or threatened with material injury, by reason of such dumping;

submit a petition to the Trade Representative that alleges the elements referred to in subparagraphs (A) and (B) and requests the Trade Representative to take action under subsection (c) on behalf of the domestic industry.

(2) A petition submitted under paragraph (1) shall contain such detailed information as the Trade Representative may require in support of the allegations in the petition.

(c) **APPLICATION FOR ANTIDUMPING ACTION ON BEHALF OF THE DOMESTIC INDUSTRY.**—

(1) If the Trade Representative, on the basis of the information contained in a petition submitted under paragraph (1), determines that there is a reasonable basis for the allegations in the petition, the Trade Representative shall submit to the appropriate authority of the Agreement country where the alleged dumping is occurring an application pursuant to Article 12 of the Agreement which requests that appropriate antidumping action under the law of that country be taken, on behalf of the United States, with respect to imports into that country of the merchandise concerned.

(2) At the request of the Trade Representative, the appropriate officers of the Department of Commerce and the United

States International Trade Commission shall assist the Trade Representative in preparing the application under paragraph (1).

(d) **CONSULTATION AFTER SUBMISSION OF APPLICATION.**—After submitting an application under subsection (c)(1), the Trade Representative shall seek consultations with the appropriate authority of the Agreement country regarding the request for antidumping action.

(e) **ACTION UPON REFUSAL OF AGREEMENT COUNTRY TO ACT.**—If the appropriate authority of an Agreement country refuses to undertake antidumping measures in response to a request made therefor by the Trade Representative under subsection (c), the Trade Representative shall promptly consult with the domestic industry on whether action under any other law of the United States is appropriate.

SEC. 1318. INPUT DUMPING BY RELATED PARTIES.

Subsection (e) of section 773 (19 U.S.C. 1677b(e)) is amended—

(1) by striking out “(3)” each place it appears in paragraph (2) and inserting “(4)”;

(2) by redesignating paragraph (3) as paragraph (4),

(3) by inserting after paragraph (2) the following new paragraph:

“(3) **SPECIAL RULE.**—If, regarding any transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).”, and

(4) by striking out “paragraph (2)” in paragraph (4) (as redesignated by paragraph (2)) and inserting “paragraphs (2) and (3)”.

SEC. 1319. FICTITIOUS MARKETS.

Subsection (a) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(a)) is amended by adding at the end thereof the following new paragraph:

“(5) **FICTITIOUS MARKETS.**—The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.”.

SEC. 1320. DOWNSTREAM PRODUCT MONITORING.

(a) **IN GENERAL.**—Subtitle D (19 U.S.C. 1677 et seq.) is amended by adding at the end thereof the following:

19 USC 1677i.

"SEC. 780. DOWNSTREAM PRODUCT MONITORING.**"(a) PETITION REQUESTING MONITORING.—**

"(1) **IN GENERAL.**—A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b). The petition shall specify—

"(A) the downstream product,

"(B) the component product incorporated into such downstream product, and

"(C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

"(2) **DETERMINATION REGARDING PETITION.**—Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

"(A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and

"(B) whether—

"(i) the component part is already subject to monitoring to aid in the enforcement of a bilateral arrangement (within the meaning of section 804 of the Trade and Tariff Act of 1984),

"(ii) merchandise related to the component part and manufactured in the same foreign country in which the component part is manufactured has been the subject of a significant number of investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303, or

"(iii) merchandise manufactured or exported by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

"(3) **FACTORS TO TAKE INTO ACCOUNT.**—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

"(A) the value of the component part in relation to the value of the downstream product,

"(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

"(C) the relationship between the producers of component parts and producers of downstream products.

"(4) **PUBLICATION OF DETERMINATION.**—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

“(5) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

“(b) MONITORING BY THE COMMISSION.—

“(1) IN GENERAL.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

“(2) REPORTS.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public.

Public
information.

“(c) ACTION ON BASIS OF MONITORING REPORTS.—The administering authority shall review the information in the reports submitted to the Commission under subsection (b)(2) and shall—

“(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

“(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component parts.

“(d) DEFINITIONS.—For purposes of this section—

“(1) The term ‘component part’ means any imported article that—

“(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

“(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

“(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

“(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, subassembly, or material in a downstream product.

“(2) The term ‘downstream product’ means any manufactured article—

“(A) which is imported into the United States, and

“(B) into which is incorporated any component part.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 779 the following:

“Sec. 780. Downstream product monitoring.”.

SEC. 1321. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) **IN GENERAL.**—Subtitle D (19 U.S.C. 1677 et seq.) (as amended by section 1320) is further amended by adding at the end thereof the following:

19 USC 1677j.

“SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

“(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

“(1) IN GENERAL.—If—

“(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

“(i) an antidumping duty order issued under section 736,

“(ii) a finding issued under the Antidumping Act, 1921, or

“(iii) a countervailing duty order issued under section 706 or section 303,

“(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

“(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

“(2) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

“(A) the pattern of trade,

“(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

“(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

“(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

“(1) IN GENERAL.—If—



“(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

“(i) an antidumping duty order issued under section 736,

“(ii) a finding issued under the Antidumping Act, 1921, or

“(iii) a countervailing duty order issued under section 706 or section 303,

“(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

“(i) is subject to such order or finding, or

“(ii) is produced in the foreign country with respect to which such order or finding applies,

“(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

“(D) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

administering authority, after taking into account any rule provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

(2) **FACTORS TO CONSIDER.**—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

“(A) the pattern of trade,

“(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

“(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

MINOR ALTERATIONS OF MERCHANDISE.—

(1) **IN GENERAL.**—The class or kind of merchandise subject

“(A) an investigation under this title,

“(B) an antidumping duty order issued under section 736,

“(C) a finding issued under the Antidumping Act, 1921, or

“(D) a countervailing duty order issued under section 706 or section 303,

shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

(2) **EXCEPTION.**—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

LATER-DEVELOPED MERCHANDISE.—

"(1) **IN GENERAL.**—For purposes of determining whether merchandise developed after an investigation is initiated under title or section 303 (hereafter in this paragraph referred to as the 'later-developed merchandise') is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether—

"(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the 'earlier product'),

"(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

"(C) the ultimate use of the earlier product and the later-developed merchandise are the same,

"(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

"(E) the later-developed merchandise is advertised or displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.

"(2) **EXCLUSION FROM ORDERS.**—The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

"(A) is classified under a tariff classification other than that identified in the petition or the administrative authority's prior notices during the proceeding, or

"(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

"(e) **COMMISSION ADVICE.**—

"(1) **NOTIFICATION TO COMMISSION OF PROPOSED ACTION.**—Before making a determination—

"(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

"(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

"(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order, finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise within a category for which notice is required under this paragraph is not subject to judicial review.

“(2) **REQUEST FOR CONSULTATION.**—After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

“(3) **COMMISSION ADVICE.**—If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.”.

(d) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 780 the following:

c. 781. Prevention of circumvention of antidumping and countervailing duty orders.”.

C. 1322. STEEL IMPORTS.

Section 805 of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, (e)) is amended by adding at the end thereof the following new section:

“(d)(1) Any steel product that is manufactured in a country that is party to a bilateral arrangement from steel which was melted and poured in a country that is party to a bilateral arrangement thereafter in this subsection referred to as ‘arrangement country’) may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

“(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

“(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called ‘third country equity provision’ of an arrangement entered into under the President’s Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.”.

C. 1323. SHORT LIFE CYCLE PRODUCTS.

(a) ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.—Subtitle B is amended by adding at the end thereof the following new section:

SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE. 19 USC 1673h.

“(a) **ESTABLISHMENT OF PRODUCT CATEGORIES.**—

“(1) **PETITIONS.**—

“(A) IN GENERAL.—An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

“(B) CONTENTS.—A petition filed under subparagraph (A) shall—

“(i) identify the short life cycle merchandise that is the subject of the affirmative dumping determinations,

“(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

“(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

“(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

“(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

“(2) DETERMINATIONS ON SUFFICIENCY OF PETITION.—Upon receiving a petition under paragraph (1), the Commission shall—

“(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

“(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

“(3) NOTICE; HEARINGS.—If the determinations under paragraph (2)(B) are affirmative, the Commission shall—

“(A) publish notice in the Federal Register that the petition has been received, and

“(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

“(4) DETERMINATIONS.—

“(A) IN GENERAL.—By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirmative dumping determinations identified in such petition shall be classified for purposes of this section.

“(B) MODIFICATIONS NOT REQUESTED BY PETITION.—

“(i) IN GENERAL.—The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.

“(ii) NOTICE AND HEARING.—Determinations may be made under clause (i) only after the Commission has—

“(I) published in the Federal Register notice of the proposed modification, and

“(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination.

“(C) **BASIS OF DETERMINATIONS.**—In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **ELIGIBLE DOMESTIC ENTITY.**—The term ‘eligible domestic entity’ means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is—

“(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or

“(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

“(2) **AFFIRMATIVE DUMPING DETERMINATION.**—The term ‘affirmative dumping determination’ means—

“(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or

“(B) any affirmative preliminary determination that—

“(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section 735 by reason of a suspension of the investigation under section 734, and

“(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

“(3) **SUBJECT OF AFFIRMATIVE DUMPING DETERMINATION.**—

“(A) **IN GENERAL.**—Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority—

“(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and

“(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.

“(B) EXCLUSION.—Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if—

“(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and

“(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

“(4) SHORT LIFE CYCLE MERCHANDISE.—The term ‘short life cycle merchandise’ means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term ‘outmoded’ refers to a kind of style that is no longer state-of-the-art.

“(c) TRANSITIONAL RULES.—

“(1) For purposes of this section and section 733(b)(1) (B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

“(2) No affirmative dumping determination that—

“(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

“(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1) (B) and (C).”

(b) EXPEDITED DUMPING INVESTIGATIONS.—Section 733 (19 U.S.C. 1673) is amended as follows:

(1) Paragraph (1) of subsection (b)(1) is amended to read as follows:

“(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under

this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

"(B) IF CERTAIN SHORT LIFE CYCLE MERCHANDISE INVOLVED.—If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied—

“(i) by substituting ‘120 days’ for ‘160 days’ if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

“(ii) by substituting ‘100 days’ for ‘160 days’ if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

"(C) DEFINITIONS OF OFFENDERS.—For purposes of subparagraph (B)—

“(i) The term ‘second offender’ means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

“(I) specified in both such determinations, and

“(II) within the scope of the product category referred to in subparagraph (B).

“(ii) The term ‘multiple offender’ means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

“(I) specified in each of such determinations, and

“(II) within the scope of the product category referred to in subparagraph (B).”.

(2) Paragraph (1) of subsection (c) is amended by inserting at the end thereof the following sentence: “No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent to the extension.”.

(3) Subsection (e)(1) is amended by adding at the end thereof the following flush sentence:

“The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.”.

(c) CONFORMING AMENDMENT.—The table of contents for title VII the Tariff Act of 1930 is amended by inserting after the item relating to section 739 the following:

sec. 739. Establishment of product categories for short life cycle merchandise.”.

C. 1324. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) Section 702 (19 U.S.C. 1671a) is amended by adding at the end thereof the following new subsection:

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle,

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the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request."

(2) Paragraph (1) of section 703(e) (19 U.S.C. 1671b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 705(b)(4) (19 U.S.C. 1671d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle."

(b) ANTIDUMPING DUTY INVESTIGATIONS.—

(1) Section 732 (19 U.S.C. 1673a) is amended by adding at the end thereof the following new subsection:

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"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

"(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

“(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.”.

(2) Paragraph (1) of section 733(e) (19 U.S.C. 1673b(e)(1)) is amended by inserting “(at any time after the initiation of the investigation under this subtitle)” after “promptly”.

(3) Subparagraph (A) of section 735(b)(4) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

“(A) RETROACTIVE APPLICATION.—

“(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.

“(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.

“(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

“(I) the condition of the domestic industry,

“(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

“(III) whether foreign economic conditions led to the massive imports of the merchandise, and

“(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.”.

SEC. 1325. EXPEDITED REVIEW AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)(1)) is amended to read as follows:

“(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of

the deposit of estimated antidumping duties required under subsection (a)(3) if—

“(A) the investigation has not been designated as extraordinarily complicated by reason of—

“(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

“(ii) the novelty of the issues presented, or

“(iii) the number of firms whose activities must be investigated,

“(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

“(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

“(i) an affirmative preliminary determination by the administering authority under section 733(b), or

“(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a), and before the date of publication of the affirmative final determination by the Commission under section 735(b);

“(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

“(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.”

(b) **BUSINESS PROPRIETARY INFORMATION.**—Subsection (c) of section 736 (19 U.S.C. 1673e(c)) is amended by adding at the end thereof the following new paragraph:

“(4) **PROVISION OF BUSINESS PROPRIETARY INFORMATION; WRITTEN COMMENTS.**—Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

“(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

“(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.”

SEC. 1326. PROCESSED AGRICULTURAL PRODUCTS.

(a) **DEFINITION OF INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.**—Paragraph (4) of section 771 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

“(E) INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—

“(i) IN GENERAL.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if—

“(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

“(II) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

“(ii) PROCESSING.—For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if—

“(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

“(II) the processed agricultural product is produced substantially or completely from the raw product.

“(iii) RELEVANT ECONOMIC FACTORS.—For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall—

“(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

“(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

“(iv) RAW AGRICULTURAL PRODUCT.—For purposes of this subparagraph, the term ‘raw agricultural product’ means any farm or fishery product.

“(v) TERMINATION OF THIS SUBPARAGRAPH.—This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of

this subparagraph is inconsistent with the international obligations of the United States.”.

(b) **THREAT OF MATERIAL INJURY.**—Section 771(7)(F) (19 U.S.C. 1677(7)(F)) is amended—

- (1) by striking out “and” at the end of subclause (VII);
- (2) by striking out the period at the end of subclause (V) and inserting “, and”; and
- (3) by adding at the end thereof the following:

“(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both).”.

(c) **INTERESTED PARTIES.**—Section 771(9) (19 U.S.C. 1677(9)) is amended—

- (1) by striking out “and” at the end of subparagraph (C);
- (2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof “, and”; and
- (3) by adding at the end thereof the following new subparagraph:

“(G) in any investigation under this title involving an industry engaged in producing a processed agricultural product, as defined in paragraph (4)(E), a coalition or trade association which is representative of either—

- “(i) processors,
- “(ii) processors and producers, or
- “(iii) processors and growers,

but this subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.”.

(d) **CONFORMING AMENDMENTS.**—

(1) Title VII of the Tariff Act of 1930 is amended by striking out “subparagraph (C), (D), (E), or (F) of section 771(9)” and inserting in lieu thereof “subparagraph (C), (D), (E), (F), or (G) of section 771(9)”.

(2) Title VII of the Tariff Act of 1930 is amended by striking out “subparagraph (C), (D), (E), and (F) of section 771(9)” and inserting in lieu thereof “subparagraph (C), (D), (E), (F), or (G) of section 771(9)”.

(3) Subsection (a) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended by adding at the end thereof the following new paragraph:

“(3) Any producer of a raw agricultural product who is considered under section 771(4)(E) to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.”.

SEC. 1327. LEASES EQUIVALENT TO SALES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

“(19) **EQUIVALENCY OF LEASES TO SALES.**—In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider—

“(A) the terms of the lease,

“(B) commercial practice within the industry,

“(C) the circumstances of the transaction,

“(D) whether the product subject to the lease is integrated into the operations of the lessee or importer,

“(E) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

“(F) other relevant factors, including whether the lease transaction would permit avoidance of antidumping or countervailing duties.”.

SEC. 1328. MATERIAL INJURY.

Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) by amending subparagraph (B) to read as follows:

“(B) **VOLUME AND CONSEQUENT IMPACT.**—In making determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission, in each case—

“(i) shall consider—

“(I) the volume of imports of the merchandise which is the subject of the investigation,

“(II) the effect of imports of that merchandise on prices in the United States for like products, and

“(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

“(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination.”; and

(2) by amending subparagraph (C)—

(A) by amending the heading to read as follows: “(C) **EVALUATION OF RELEVANT FACTORS.**—”,

(B) by striking out “price undercutting” in clause (ii) and inserting “price underselling”, and

(C) by amending clause (iii) to read as follows:

“(iii) **IMPACT ON AFFECTED DOMESTIC INDUSTRY.**—In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

“(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

“(II) factors affecting domestic prices,

Employment
and
unemployment.
Wages.

“(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

“(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.”.

SEC. 1329. THREAT OF MATERIAL INJURY.

Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1326) is further amended—

- (1) by striking out “and” at the end of clause (i)(VIII),
- (2) by striking out the period at the end of clause (i)(IX),
- (3) by adding at the end of clause (i) the following new subclause:

“(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.”, and

- (4) by adding at the end thereof the following:

“(iii) EFFECT OF DUMPING IN THIRD-COUNTRY MARKETS.—

“(I) IN GENERAL.—In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

“(II) GATT MEMBER MARKET.—For purposes of this clause, the term ‘GATT member market’ means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

“(III) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities shall be treated as a foreign country.”.

SEC. 1330. CUMULATION.

(a) **THREAT OF INJURY.**—Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1329) is further amended by adding at the end thereof the following new clause:

“(iv) **CUMULATION.**—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i) (III) and (IV) the Commission may cumulatively assess

the volume and price effects of imports from two or more countries if such imports—

“(I) compete with each other, and with like products of the domestic industry, in the United States market, and

“(II) are subject to any investigation under section 303, 701, or 731.”.

(b) **TREATMENT OF NEGLIGIBLE IMPORTS.**—Subparagraph (C) of section 771(7) (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

“(v) **TREATMENT OF NEGLIGIBLE IMPORTS.**—The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether—

“(I) the volume and market share of the imports are negligible,

“(II) sales transactions involving the imports are isolated and sporadic, and

“(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.”.

SEC. 1331. CERTIFICATION OF SUBMISSIONS.

Section 776 (19 U.S.C. 1677e) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively,

(2) by amending the heading to subsection (b) (as so redesignated) to read as follows: “(b) **VERIFICATION.**—”, and

(3) by inserting before such subsection (b) the following:

“(a) **CERTIFICATION OF SUBMISSIONS.**—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person’s knowledge.”.

SEC. 1332. ACCESS TO INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)(1)(B)(ii) to read as follows:

“(ii) a statement to the administering authority or the Commission that the business proprietary informa-

tion is of a type that should not be released under administrative protective order.”;

(2) by amending subsection (c)(1)—

(A) by amending subparagraph (A) to read as follows:

“(A) **IN GENERAL.**—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding.”; and

(B) by adding at the end thereof the following new subparagraphs:

“(C) **TIME LIMITATION ON DETERMINATIONS.**—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

“(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or

“(ii) if—

“(I) the person that submitted the information raises objection to its release, or

“(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

“(D) **AVAILABILITY AFTER DETERMINATION.**—If the determination under subparagraph (C) is affirmative, then—

“(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

“(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

“(E) **FAILURE TO DISCLOSE.**—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.”;

(3) by striking out “or the Commission denies a request for proprietary information submitted by the petitioner or an in-

interested party in support of the petitioner concerning the domestic price or cost of production of the like product," in subsection (c)(2); and

(4) by adding at the end thereof the following new subsections:

"(d) **SERVICE.**—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

"(e) **TIMELY SUBMISSIONS.**—Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it."

SEC. 1333. CORRECTION OF MINISTERIAL ERRORS.

(a) **FINAL DETERMINATIONS.**—Sections 705 and 735 (19 U.S.C. 1671d and 1673d) are each amended by adding at the end thereof the following new subsection:

"(e) **CORRECTION OF MINISTERIAL ERRORS.**—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."

(b) **ADMINISTRATIVE REVIEW.**—Section 751 (19 U.S.C. 1675) is amended by adding at the end thereof the following new subsection:

"(f) **CORRECTION OF MINISTERIAL ERRORS.**—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."

SEC. 1334. DRAWBACK TREATMENT.

(a) **IN GENERAL.**—Section 779 (19 U.S.C. 1677h) is amended by striking out "shall be treated as any other customs duties." and inserting "shall not be treated as being regular customs duties."

(b) CONFORMING AMENDMENTS.—

(1) The section heading for such section 779 is amended by striking out “DRAWBACKS” and inserting “DRAWBACK TREATMENT”.

(2) The table of contents for title VII of the Tariff Act of 1930 is amended by striking out “Drawbacks.” in the entry for section 779 and inserting “Drawback treatment.”.

SEC. 1335. GOVERNMENTAL IMPORTATIONS.

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) (as amended by section 1316(b)) is amended by adding at the end thereof the following new paragraph:

“(19) APPLICATION TO GOVERNMENTAL IMPORTATIONS.—

“(A) IN GENERAL.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

“(B) EXCEPTIONS.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

“(i) the merchandise is acquired by, or for use of, such Department—

“(I) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superceding agreements, and

“(II) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

“(ii) the merchandise has no substantial nonmilitary use.”.

SEC. 1336. STUDIES.

(a) **STUDY OF MARKET ORIENTATION OF CHINA.**—The Secretary of Commerce, in consultation with the heads of other appropriate Federal agencies, shall undertake a study regarding the new market orientation of the People's Republic of China. The study shall address, but not be limited to—

(1) the effect of the new orientation on Chinese market policies and price structure, and the relationship between domestic Chinese prices and world prices;

(2) the extent to which United States trade law practices can accommodate the increased market orientation of the Chinese economy; and

(3) the possible need for changes in United States antidumping laws as they apply to foreign countries, such as China, which are in transition to a more market-oriented economy.

The Secretary of Commerce shall submit to the Congress within 1 year after the date of the enactment of this Act a report on the study required under this subsection.

(b) **SUBSIDIES CODE COMMITMENTS.**—Within 90 days after the date of the enactment of this Act, the United States Trade Representa-

tive shall initiate a review of all bilateral subsidy commitments that have been entered into by foreign governments with the United States. The review shall include—

- (1) an evaluation of the extent to which the commitments have been complied with;
- (2) with respect to those commitments found under paragraph (1) not to have been complied with, an estimate regarding when compliance is likely; and
- (3) recommendations regarding how compliance can be improved.

The United States Trade Representative shall complete the review required under this subsection and submit a report thereon to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 180 days after the date of the enactment of this Act.

Reports.

SEC. 1337. EFFECTIVE DATES.

19 USC 1671
note.

(a) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) **INVESTIGATIONS AND REVIEWS AFTER ENACTMENT.**—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 shall only apply with respect to—

- (1) investigations initiated after the date of enactment of this Act, and
- (2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act.

(c) **INVESTIGATIONS AFTER ENACTMENT.**—The amendments made by sections 1324 and 1330 shall only apply with respect to investigations initiated after the date of enactment of this Act.

(d) **PREVENTION OF CIRCUMVENTION OF DUTIES; DRAWBACK.**—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a), and the amendments made by section 1334 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

(e) **GOVERNMENTAL IMPORTATIONS; STEEL.**—The amendments made by sections 1321(b) and 1335 shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act.

(f) **FICTITIOUS MARKETS.**—The amendment made by section 1319 shall only apply with respect to—

- (1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act, and
- (2) reviews initiated under such sections—
 - (A) which are pending on the date of enactment of this Act, and
 - (B) in which a request for revocation is pending on the date of enactment of this Act.

PART 3—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Copyrights.
Patents and
trademarks.

SEC. 1341. CONGRESSIONAL FINDINGS AND PURPOSES.

19 USC 1337
note.

(a) **FINDINGS.**—The Congress finds that—

(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

(2) the existing protection under section 337 of the Tariff Act of 1930 against unfair trade practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

(b) **PURPOSE.**—The purpose of this part is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights.

SEC. 1342. PROTECTION UNDER THE TARIFF ACT OF 1930.

(a) **IN GENERAL.**—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

“(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

“(i) to destroy or substantially injure an industry in the United States;

“(ii) to prevent the establishment of such an industry; or

“(iii) to restrain or monopolize trade and commerce in the United States.

“(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

“(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17, United States Code; or

“(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

“(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946.

“(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

“(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

“(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, or mask work concerned—

“(A) significant investment in plant and equipment;

“(B) significant employment of labor or capital; or

“(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

“(4) For the purposes of this section, the phrase ‘owner, importer, or consignee’ includes any agent of the owner, importer, or consignee.”

(2) Subsection (c) is amended by inserting before the period in the first sentence the following: “, except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination”.

(3) Subsection (e) is amended—

(A) by striking out “If” in the first sentence and inserting “(1) If”; and

(B) by adding at the end thereof the following new paragraphs:

“(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission’s notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection.

Federal
Register,
publication.

“(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.”.

(4) Subsection (f) is amended—

(A) by striking out “In lieu of” in paragraph (1) and inserting “In addition to, or in lieu of,”; and

(B) by striking out “\$10,000 or” in paragraph (2) and inserting “\$100,000 or twice”.

(5) Such section is further amended—

(A) by redesignating subsections (g), (h), (i), and (j) as subsections (j), (k), (l), and (m), respectively; and

(B) by inserting after subsection (f) the following new subsections:

“(g)(1) If—

“(A) a complaint is filed against a person under this section;

“(B) the complaint and a notice of investigation are served on the person;

“(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

“(D) the person fails to show good cause why the person should not be found in default; and

“(E) the complainant seeks relief limited solely to that person; the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in

the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

"(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

"(A) no person appears to contest an investigation concerning a violation of the provisions of this section, and

"(B) such a violation is established by substantial, reliable, and probative evidence.

"(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

"(i) FORFEITURE.—

"(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

"(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

"(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

"(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

"(i) such order, and

"(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

"(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

"(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

"(4) The Secretary of the Treasury shall provide—

"(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

"(B) a copy of such written notice to the Commission."

(6) Subsection (k) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

“(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and
 “(B) relief may be granted by the Commission with respect to such petition—

“(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

“(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.”.

(7) Subsection (l) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by striking out “claims of United States letters patent” in the first sentence and inserting “a proceeding involving a patent, copyright, or mask work under subsection (a)(1)”; and

(B) by striking out “a patent owner” in the second sentence and inserting “an owner of the patent, copyright, or mask work”.

(8) Such section is further amended by adding at the end the following:

“(n)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

Classified
information.

(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

“(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted,

“(B) an officer or employee of the United States Government who is directly involved in the review under subsection (h), or

“(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.”.

(b) TECHNICAL AMENDMENTS.—Section 337 (as amended by subsection (a)) is further amended—

(1) by amending subsection (b)—

(A) by striking out “Department of Health, Education, and Welfare” in paragraph (2) and inserting “Department of Health and Human Services”; and

(B) by striking out “Secretary of the Treasury” in paragraph (3) and inserting “Secretary of Commerce”;

(2) by amending subsection (c)—

(A) by striking out “or (f)” and inserting “(f), or (g)”, and

(B) by striking out “and (f)” and inserting “(f), and (g)”;

(3) by striking out “or (f)” each place it appears in subsection (j) and inserting “(f), (g), or (i)”;

(4) by striking out “(g)” in subsection (k) and inserting “(j)”; and

(5) by striking out “or (f)” in subsection (l) and inserting “(f), (g), or (i)”.

(c) CONFORMING AMENDMENT.—The Act entitled “An Act to limit the importation of products made, produced, processed, or mined

under process covered by unexpired valid United States patents, and for other purposes", approved July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a), is repealed.

19 USC 1337
note.

(d) **EFFECTIVE DATE.**—

(1)(A) Subject to subparagraph (B), the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

(i) the 90th day after such date of enactment; or

(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

(B) the Commission finds that the investigation is complicated.

Telecommunica-
tions Trade Act
of 1988.
19 USC 3101
note.

PART 4—TELECOMMUNICATIONS TRADE

SEC. 1371. SHORT TITLE.

This part may be cited as the "Telecommunications Trade Act of 1988".

19 USC 3101.

SEC. 1372. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) rapid growth in the world market for telecommunications products and services is likely to continue for several decades;

(2) the United States can improve prospects for—

(A) the growth of—

(i) United States exports of telecommunications products and services, and

(ii) export-related employment and consumer services in the United States, and

(B) the continuance of the technological leadership of the United States,

by undertaking a program to achieve an open world market for trade in telecommunications products, services, and investment;

(3) most foreign markets for telecommunications products, services, and investment are characterized by extensive government intervention (including restrictive import practices and discriminatory procurement practices) which adversely affect United States exports of telecommunications products and services and United States investment in telecommunications;

(4) the open nature of the United States telecommunications market, accruing from the liberalization and restructuring of such market, has contributed, and will continue to contribute, to an increase in imports of telecommunications products and a

growing imbalance in competitive opportunities for trade in telecommunications;

(5) unless this imbalance is corrected through the achievement of mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries, the United States should avoid granting continued open access to the telecommunications products and services of such foreign countries in the United States market; and

(6) the unique business conditions in the worldwide market for telecommunications products and services caused by the combination of deregulation and divestiture in the United States, which represents a unilateral liberalization of United States trade with the rest of the world, and continuing government intervention in the domestic industries of many other countries create a need to make an exception in the case of telecommunications products and services that should not necessarily be a precedent for legislating specific sectoral priorities in combating the closed markets or unfair foreign trade practices of other countries.

b) PURPOSES.—The purposes of this part are—

(1) to foster the economic and technological growth of, and employment in, the United States telecommunications industry;

(2) to secure a high quality telecommunications network for the benefit of the people of the United States;

(3) to develop an international consensus in favor of open trade and competition in telecommunications products and services;

(4) to ensure that countries which have made commitments to open telecommunications trade fully abide by those commitments; and

(5) to achieve a more open world trading system for telecommunications products and services through negotiation and provision of mutually advantageous market opportunities for United States telecommunications exporters and their subsidiaries in those markets in which barriers exist to free international trade.

C. 1373. DEFINITIONS.

19 USC 3102.

For purposes of this part—

(1) The term “Trade Representative” means the United States Trade Representative.

(2) The term “telecommunications product” means—

(A) any paging devices provided for under item 685.65 of such Schedules, and

(B) any article classified under any of the following item numbers of such Schedules:

684.57	684.67	685.28	685.39
684.58	684.80	685.30	685.48
684.59	685.16	685.31	688.17
684.65	685.24	685.33	688.41
684.66	685.25	685.34	707.90.

C. 1374. INVESTIGATION OF FOREIGN TELECOMMUNICATIONS TRADE BARRIERS.

19 USC 3103.

(a) **IN GENERAL.**—The Trade Representative shall conduct an investigation to identify priority foreign countries. Such investiga-

Termination
date.

tion shall be concluded by no later than the date that is 5 months after the date of enactment of this Act.

(b) **FACTORS TO BE TAKEN INTO ACCOUNT.**—In identifying priority foreign countries under subsection (a), the Trade Representative shall take into account, among other relevant factors—

(1) the nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms;

(2) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market;

(3) the potential size of the market of a foreign country for telecommunications products and services of United States firms;

(4) the potential to increase United States exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and

(5) measurable progress being made to eliminate the objectionable acts, policies, or practices.

(c) **REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.**—

(1) The Trade Representative may at any time, after taking into account the factors described in subsection (b)—

(A) revoke the identification of any priority foreign country that was made under this section, or

(B) identify any foreign country as a priority foreign country under this section, if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) of the Trade Act of 1974 a detailed explanation of the reasons for the revocation under paragraph (1) of this subsection of any identification of any foreign country as a priority foreign country.

(d) **REPORT TO CONGRESS.**—By no later than the date that is 30 days after the date on which the investigation conducted under subsection (a) is completed, the United States Trade Representative shall submit a report on the investigation to the President and to appropriate committees of the Congress.

19 USC 3104.

SEC. 1375. NEGOTIATIONS IN RESPONSE TO INVESTIGATION.

(a) **IN GENERAL.**—Upon—

(1) the date that is 30 days after the date on which any foreign country is identified in the investigation conducted under section 1374(a) as a priority foreign country, and

President of U.S.
Contracts.

(2) the date on which any foreign country is identified under section 1374(c)(1)(B) as a priority foreign country, the President shall enter into negotiations with such priority foreign country for the purpose of entering into a bilateral or multilateral trade agreement under part 1 of subtitle A which meets the specific negotiating objectives established by the President under subsection (b) for such priority foreign country.

President of U.S.

(b) **ESTABLISHMENT OF SPECIFIC NEGOTIATING OBJECTIVES FOR EACH FOREIGN PRIORITY COUNTRY.**—

(1) The President shall establish such relevant specific negotiating objectives on a country-by-country basis as are necessary to meet the general negotiating objectives of the United States under this section.

(2)(A) The President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including—

- (i) changed practices by the priority foreign country,
- (ii) tangible substantive developments in multilateral negotiations,
- (iii) changes in competitive positions, technological developments, or
- (iv) other relevant factors.

(B) By no later than the date that is 30 days after the date on which the President makes any modifications or refinements to specific negotiating objectives under subparagraph (A), the President shall submit to appropriate committees of the Congress a statement describing such modifications or refinements and the reasons for such modifications or refinements.

GENERAL NEGOTIATING OBJECTIVES.—The general negotiating objectives of the United States under this section are—

(1) to obtain multilateral or bilateral agreements (or the modification of existing agreements) that provide mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries;

(2) to correct the imbalances in market opportunities accruing from reductions in barriers to the access of telecommunications products and services of foreign firms to the United States market; and

(3) to facilitate the increase in United States exports of telecommunications products and services to a level of exports that reflects the competitiveness of the United States telecommunications industry.

SPECIFIC NEGOTIATING OBJECTIVES.—The specific negotiating objectives of the United States under this section regarding telecommunications products and services are to obtain—

(1) national treatment for telecommunications products and services that are provided by United States firms;

(2) most-favored-nation treatment for such products and services;

(3) nondiscriminatory procurement policies with respect to such products and services and the inclusion under the Agreement on Government Procurement of the procurement (by sale or lease by government-owned or controlled entities) of all telecommunications products and services;

(4) the reduction or elimination of customs duties on telecommunications products;

(5) the elimination of subsidies, violations of intellectual property rights, and other unfair trade practices that distort international trade in telecommunications products and services;

(6) the elimination of investment barriers that restrict the establishment of foreign-owned business entities which market such products and services;

(7) assurances that any requirement for the registration of telecommunications products, which are to be located on customer premises, for the purposes of—

(A) attachment to a telecommunications network in a foreign country, and

(B) the marketing of the products in a foreign country, be limited to the certification by the manufacturer that the products meet the standards established by the foreign country for preventing harm to the network or network personnel;

(8) transparency of, and open participation in, the standards-setting processes used in foreign countries with respect to telecommunications products;

(9) the ability to have telecommunications products, which are to be located on customer premises, approved and registered by type, and, if appropriate, the establishment of procedures between the United States and foreign countries for the mutual recognition of type approvals;

(10) access to the basic telecommunications network in foreign countries on reasonable and nondiscriminatory terms and conditions (including nondiscriminatory prices) for the provision of value-added services by United States suppliers;

(11) the nondiscriminatory procurement of telecommunications products and services by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments; and

(12) monitoring and effective dispute settlement mechanisms to facilitate compliance with matters referred to in the preceding paragraphs of this subsection.

President of U.S.
19 USC 3105.

SEC. 1376. ACTIONS TO BE TAKEN IF NO AGREEMENT OBTAINED.

(a) IN GENERAL.—

(1) If the President is unable, before the close of the negotiating period, to enter into an agreement under subtitle A with any priority foreign country identified under section 1374 which achieves the general negotiating objectives described in section 1375(b) as defined by the specific objectives established by the President for that country, the President shall take whatever actions authorized under subsection (b) that are appropriate and most likely to achieve such general negotiating objectives.

(2) In taking actions under paragraph (1), the President shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the President determines that actions against other economic sectors would be more effective in achieving the general negotiating objectives referred to in paragraph (1).

(b) ACTIONS AUTHORIZED.—

(1) The President is authorized to take any of the following actions under subsection (a) with respect to any priority foreign country:

(A) termination, withdrawal, or suspension of any portion of any trade agreement entered into with such country under—

(i) the Trade Act of 1974,

(ii) section 201 of the Trade Expansion Act of 1962, or

(iii) section 350 of the Tariff Act of 1930,

with respect to any duty or import restriction imposed by the United States on any telecommunications product;

(B) actions described in section 301 of the Trade Act of 1974;

(C) prohibition of purchases by the Federal Government of telecommunications products of such country;

(D) increases in domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) for purchases by the Federal Government of telecommunications products of such country;

(E) suspension of any waiver of domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) which may have been extended to such country pursuant to the Trade Agreements Act of 1979 with respect to telecommunications products or any other products;

(F) issuance of orders to appropriate officers and employees of the Federal Government to deny Federal funds or Federal credits for purchases of the telecommunications products of such country; and

(G) suspension, in whole or in part, of benefits accorded articles of such country under title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.).

(2) Notwithstanding section 125 of the Trade Act of 1974 and any other provision of law, if any portion of a trade agreement described in paragraph (1)(A) is terminated, withdrawn, or suspended under paragraph (1) with respect to any duty imposed by the United States on the products of a foreign country, the rate of such duty that shall apply to such products entered, or withdrawn from warehouse for consumption, after the date on which such termination, withdrawal, or suspension takes effect shall be a rate determined by the President.

NEGOTIATING PERIOD.—

(1) For purposes of this section, the term “negotiating period” means—

(A) with respect to a priority foreign country identified in the investigation conducted under section 1374(a), the 18-month period beginning on the date of the enactment of this Act, and

(B) with respect to any foreign country identified as a priority foreign country after the conclusion of such investigation, the 1-year period beginning on the date on which such identification is made.

(2)(A) The negotiating period with respect to a priority foreign country may be extended for not more than two 1-year periods.

(B) By no later than the date that is 15 days after the date on which the President extends the negotiating period with respect to any priority foreign country, the President shall submit to appropriate committees of the Congress a report on the status of negotiations with such country that includes—

(i) a finding by the President that substantial progress is being made in negotiations with such country, and

(ii) a statement detailing the reasons why an extension of such negotiating period is necessary.

MODIFICATION AND TERMINATION AUTHORITY.—The President may modify or terminate any action taken under subsection (a) if, after taking into consideration the factors described in section 1374(b), the President determines that changed circumstances warrant such modification or termination.

REPORT.—The President shall promptly inform the appropriate committees of the Congress of any action taken under subsection (a)

or of the modification or termination of any such action under subsection (d).

19 USC 3106.

SEC. 1377. REVIEW OF TRADE AGREEMENT IMPLEMENTATION BY TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) In conducting the annual analysis under section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241), the Trade Representative shall review the operation and effectiveness of—

(A) each trade agreement negotiated by reason of this part that is in force with respect to the United States; and

(B) every other trade agreement regarding telecommunications products or services that is in force with respect to the United States.

(2) In each review conducted under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that has entered into the agreement described in paragraph (1)—

(A) is not in compliance with the terms of such agreement, or

(B) otherwise denies, within the context of the terms of such agreement, to telecommunications products and services of United States firms mutually advantageous market opportunities in that foreign country.

(b) REVIEW FACTORS.—

(1) In conducting reviews under subsection (a), the Trade Representative shall consider any evidence of actual patterns of trade (including United States exports to a foreign country of telecommunications products and services, including sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services.

(2) The Trade Representative shall consult with the United States International Trade Commission with regard to the actual patterns of trade described in paragraph (1).

(c) ACTION IN RESPONSE TO AFFIRMATIVE DETERMINATION.—

(1) Any affirmative determination made by the Trade Representative under subsection (a)(2) with respect to any act, policy, or practice of a foreign country shall, for purposes of chapter 1 of title III of the Trade Act of 1974, be treated as an affirmative determination under section 304(a)(1)(A) of such Act that such act, policy, or practice violates a trade agreement.

(2) In taking actions under section 301 by reason of paragraph (1), the Trade Representative shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the Trade Representative determines that actions against other economic sectors would be more effective in achieving compliance by the foreign country with the trade agreement that is the subject of the affirmative determination made under subsection (a)(2).

19 USC 3107.

SEC. 1378. COMPENSATION AUTHORITY.

If—

(1) the President has taken action under section 1376(a) with respect to any foreign country, and

(2) such action is found to be inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade,

President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

1379. CONSULTATIONS.

(a) **ADVICE FROM DEPARTMENTS AND AGENCIES.**—Prior to taking any action under this part, the President shall seek information and advice from the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872).

(b) **ADVICE FROM THE PRIVATE SECTOR.**—Before—

(1) the Trade Representative concludes the investigation conducted under section 1374(a) or takes action under section 1374(c),

(2) the President establishes specific negotiating objectives under section 1375(b) with respect to any foreign country, or

(3) the President takes action under section 1376,

Trade Representative shall provide an opportunity for the presentation of views by any interested party with respect to such investigation, objectives, or action, including appropriate committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(c) **CONSULTATIONS WITH CONGRESS AND OFFICIAL ADVISORS.**—For purposes of conducting negotiations under section 1375(a), the Trade Representative shall keep appropriate committees of the Congress, as well as appropriate committees established pursuant to section 135 of the Trade Act of 1974, currently informed with respect to—

(1) the negotiating priorities and objectives for each priority foreign country;

(2) the assessment of negotiating prospects, both bilateral and multilateral; and

(3) any United States concessions which might be included in negotiations to achieve the objectives described in subsections (c) and (d) of section 1375.

(d) **MODIFICATION OF SPECIFIC NEGOTIATING OBJECTIVES.**—Before the President takes any action under section 1375(b)(2)(A) to refine or modify specific negotiating objectives, the President shall consult with the Congress and with members of the industry, and representatives of labor, affected by the proposed refinement or modification.

1380. SUBMISSION OF DATA; ACTION TO ENSURE COMPLIANCE.

(a) **SUBMISSION OF DATA.**—The Federal Communications Commission (hereafter in this section referred to as the “Commission”) shall periodically submit to appropriate committees of the House of Representatives and of the Senate any data collected and otherwise made public under Report No. DC-1105, “Information Reporting Requirements Established for Common Carriers”, adopted February 25, 1988, relating to FCC Docket No. 86-494, adopted December 1987.

(b) **ACTION TO ENSURE COMPLIANCE.**—

President of U.S.
19 USC 3108.

President of U.S.

19 USC 3109.

(1)(A) Any product of a foreign country that is subject to registration or approval by the Commission may be entered only if—

(i) such product conforms with all applicable rules and regulations of the Commission, and

(ii) the information which is required on Federal Communications Commission Form 740 on the date of enactment of this Act is provided to the appropriate customs officer at the time of such entry in such form and manner as the Secretary of the Treasury may prescribe.

(B) For purposes of this paragraph, the term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The Commission, the Secretary of Commerce, and the Trade Representative shall provide such assistance in the enforcement of paragraph (1) as the Secretary of the Treasury may request.

Reports.

(3) The Secretary of the Treasury shall compile the information collected under paragraph (1)(A)(ii) into a summary and shall annually submit such summary to the Congress until the authority to negotiate trade agreements under part 1 of subtitle A expires. Such information shall also be made available to the public.

Public
information.

19 USC 3110.

SEC. 1381. STUDY ON TELECOMMUNICATIONS COMPETITIVENESS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Federal Communications Commission and the United States Trade Representative, shall conduct a study of the competitiveness of the United States telecommunications industry and the effects of foreign telecommunications policies and practices on such industry in order to assist the Congress and the President in determining what actions might be necessary to preserve the competitiveness of the United States telecommunications industry.

(b) PUBLIC COMMENT.—The Secretary of Commerce may, as appropriate, provide notice and reasonable opportunity for public comment as part of the study conducted under subsection (a).

(c) REPORT.—The Secretary of Commerce shall, by no later than the date that is 1 year after the date of enactment of this Act, submit to the Congress and the President a report on the findings and recommendations reached by the Secretary of Commerce as a result of the study conducted under subsection (a). Such report shall be referred to the appropriate committees of the House of Representatives and of the Senate.

19 USC 3111.

SEC. 1382. INTERNATIONAL OBLIGATIONS.

Nothing in this part may be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

Subtitle D—Adjustment to Import Competition**PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES
INJURED BY IMPORTS****SEC. 1401. POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS.**

(a) **IN GENERAL.**—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251-2253) is amended to read as follows:

**“CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES
INJURED BY IMPORTS****SEC. 201. ACTION TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION. 19 USC 2251.**

(a) **PRESIDENTIAL ACTION.**—If the United States International Trade Commission (hereinafter referred to in this chapter as the “Commission”) determines under section 202(b) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this chapter, shall take all appropriate and feasible action within his power which the President determines will facilitate exports by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

(b) **POSITIVE ADJUSTMENT TO IMPORT COMPETITION.**—

“(1) For purposes of this chapter, a positive adjustment to import competition occurs when—

“(A) the domestic industry—

“(i) is able to compete successfully with imports after actions taken under section 204 terminate, or

“(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

“(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

“(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the investigation was initiated under section 202(b).

SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION. 19 USC 2252.

(a) **PETITIONS AND ADJUSTMENT PLANS.**—

“(1) A petition requesting action under this chapter for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

“(2) A petition under paragraph (1)—

“(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

“(B) may—

“(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

“(ii) request, or at any time before the 150th day after the date of filing be amended to request, provisional relief under subsection (d)(2).

“(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

“(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this chapter referred to as the ‘Trade Representative’), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

“(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative and the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being considered for inclusion in the plan in relation to specific actions that may be taken under this chapter.

“(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

“(6)(A) In the course of any investigation under subsection (b), the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

“(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

“(i) firm in the domestic industry;

“(ii) certified or recognized union or group of workers in the domestic industry;

“(iii) State or local community;

“(iv) trade association representing the domestic industry; or

“(v) any other person or group of persons, may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

“(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

“(b) INVESTIGATIONS AND DETERMINATIONS BY COMMISSION.—

“(1)(A) Upon the filing of a petition under subsection (b), the request of the President or the Trade Representative, the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate,

or on its own motion, the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

“(B) For purposes of this section, the term ‘substantial cause’ means a cause which is important and not less than any other cause.

“(2)(A) Except as provided in subparagraph (B), the Commission shall make the determination under paragraph (1) within 120 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

“(B) If before the 100th day after a petition is filed under subsection (a)(1) the Commission determines that the investigation is extraordinarily complicated, the Commission shall make the determination under paragraph (1) within 150 days after the date referred to in subparagraph (A).

“(3)(A) If the Commission makes an affirmative determination under paragraph (1) and the petitioner alleges the existence of critical circumstances, the Commission shall make a determination regarding such allegation—

“(i) on or before the 120th day after the day on which the petition was filed, if such allegation was included in the petition on or before the 90th day after such filing date; or

“(ii) on or before the date the report required under subsection (f) regarding the determination is submitted to the President, if such allegation was included in the petition after the 90th day, and on or before the 150th day, after such filing date.

“(B) For purposes of this paragraph and subsection (d)(2), critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

“(4) In the course of any proceeding under this subsection, the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), and to be heard at such hearings.

“(c) **FACTORS APPLIED IN MAKING DETERMINATIONS.**—

“(1) In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

“(A) with respect to serious injury—

“(i) the significant idling of productive facilities in the domestic industry,

“(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

“(iii) significant unemployment or underemployment within the domestic industry;

“(B) with respect to threat of serious injury—

Employment
and
unemployment.

Wages.

“(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

“(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

“(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

“(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

“(2) In making determinations under subsection (b), the Commission shall—

“(A) consider the condition of the domestic industry over the course of the relevant business cycle, but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of injury; and

“(B) examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry.

The Commission shall include the results of its examination under subparagraph (B) in the report submitted by the Commission to the President under subsection (e).

“(3) The presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) of paragraph (1) is not necessarily dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

“(4) For purposes of subsection (b), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

“(A) to the extent information is available, shall, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production;

“(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article; and

“(C) may, in the case of one or more domestic producers which produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as

such domestic industry only that segment of the production located in such area.

“(5) In the course of any proceeding under this subsection, the Commission shall investigate any factor which in its judgment may be contributing to increased imports of the article under investigation. Whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

“(6) For purposes of this subsection:

“(A) The term ‘domestic industry’ includes producers located in the United States insular possession.

“(B) The term ‘significant idling of productive facilities’ includes the closing of plants or the underutilization of production capacity.

PROVISIONAL RELIEF.—

“(1)(A) An entity representing a domestic industry that produces a perishable agricultural product that is like or directly competitive with an imported perishable agricultural product may file a request with the Trade Representative for the monitoring of imports of that product under subparagraph (B). Within 21 days after receiving the request, the Trade Representative shall determine if—

Agriculture and
agricultural
commodities.

“(i) the imported product is a perishable agricultural product; and

“(ii) there is a reasonable indication that such product is being imported into the United States in such increased quantities as to be, or likely to be, a substantial cause of serious injury, or the threat thereof, to such domestic industry.

“(B) If the determinations under subparagraph (A) (i) and (ii) are affirmative, the Trade Representative shall request, under section 332(g) of the Tariff Act of 1930, the Commission to monitor and investigate the imports concerned for a period not to exceed 2 years. The monitoring and investigation may include the collection and analysis of information that would expedite an investigation under subsection (b).

“(C) If a petition filed under subsection (a)—

“(i) alleges injury from imports of a perishable agricultural product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under paragraph (2) for not less than 90 days; and

“(ii) requests that provisional relief be provided under this subsection with respect to such imports;

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination, on the basis of available information, whether increased imports (either actual or relative to domestic production) of the perishable agricultural product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable product, and whether either—

"(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

"(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

"(D) At the request of the Commission, the Secretary of Agriculture shall promptly provide to the Commission any relevant information that the Department of Agriculture may have for purposes of making determinations and findings under this subsection.

"(E) Whenever the Commission makes an affirmative preliminary determination under subparagraph (C), the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury or threat thereof. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury or threat thereof.

Reports.

"(F) The Commission shall immediately report to the President its determination under subparagraph (C) and, if the determination is affirmative, the finding under subparagraph (E).

President of U.S.

"(G) Within 7 days after receiving a report from the Commission under subparagraph (F) containing an affirmative determination, the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (E), shall proclaim such provisional relief that the President considers necessary to prevent or remedy the serious injury or threat thereof.

"(2)(A) The Commission shall, at the same time it makes an affirmative determination under subsection (b)(3)(A) regarding the existence of critical circumstances, find the amount or extent of provisional relief that is appropriate to address such critical circumstances. The Commission shall immediately report to the President each such affirmative determination and finding.

Reports.

President of U.S.

"(B) After receiving a report from the Commission under subparagraph (A), the President shall, within 7 days after the day on which the report is received and after taking into account the finding of the Commission under subparagraph (A), proclaim such provisional relief, if any, that the President considers appropriate to address the critical circumstances.

President of U.S.

"(3) If provisional relief is proclaimed under paragraph (1)(G) or (2)(B) in the form of an increase, or the imposition of, a duty, the President shall order the suspension of liquidation of all imported articles subject to the affirmative determination under paragraph (1)(C) or subsection (b)(1), as the case may be, that are entered, or withdrawn from warehouse for consumption, on or after the date of the determination.

"(4)(A) Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

"(i) if such relief was proclaimed under paragraph (1)(G), the Commission makes a negative determination under section 203(a) regarding injury or the threat thereof by imports of such article;

“(ii) action described in section 203(a)(3) (A) or (C) takes effect under section 203 with respect to such article;

“(iii) a decision by the President not to take any action under section 203(a) with respect to such article becomes final; or

“(iv) whenever the President determines that, because of changed circumstances, such relief is no longer warranted.

“(B) Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the day on which provisional relief is terminated under subparagraph (A) with respect to the article.

“(C) If an increase in, or the imposition of, a duty that is proclaimed under section 203 on an imported article is different from a duty increase or imposition that was proclaimed for such an article under this section, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

“(D) If provisional relief in the form of an increase in, or the imposition of, a duty is proclaimed under this section with respect to an imported article and neither a duty increase nor a duty imposition is proclaimed under section 203 regarding such article, the entry of any such article for which liquidation was suspended under paragraph (3) may be liquidated at the rate of duty that applied before provisional relief was provided.

“(5) For purposes of this subsection:

“(A) A perishable agricultural product is any agricultural article, including livestock, regarding which the Trade Representative considers action under this section to be appropriate after taking into account—

“(i) whether the article has—

“(I) a short shelf life,

“(II) a short growing season, or

“(III) a short marketing period,

“(ii) whether the article is treated as a perishable product under any other Federal law or regulation; and

“(iii) any other factor considered appropriate by the Trade Representative.

The presence or absence of any factor which the Trade Representative is required to take into account under clause (i), (ii), or (iii) is not necessarily dispositive of whether an article is a perishable agricultural product.

“(B) The term ‘provisional relief’ means—

“(i) any increase in, or imposition of, any duty;

“(ii) any modification or imposition of any quantitative restriction on the importation of an article into the United States; or

“(iii) any combination of actions under clauses (i) and (ii).

“(e) COMMISSION RECOMMENDATIONS.—

“(1) If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall also recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

“(2) The Commission is authorized to recommend under paragraph (1)—

“(A) an increase in, or the imposition of, any duty on the imported article;

“(B) a tariff-rate quota on the article;

“(C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

“(D) one or more appropriate adjustment measures including the provision of trade adjustment assistance under chapter 2; or

“(E) any combination of the actions described in subparagraphs (A) through (D).

“(3) The Commission shall specify the type, amount, and duration of the action recommended by it under paragraph (1). The limitations set forth in section 203(e) are applicable to the action recommended by the Commission.

“(4) In addition to the recommendation made under paragraph (1), the Commission may also recommend that the President—

“(A) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat; or

“(B) implement any other action authorized under law that is likely to facilitate positive adjustment to import competition.

“(5) For purposes of making its recommendation under this subsection, the Commission shall—

“(A) after reasonable notice, hold a public hearing at which all interested parties shall be provided an opportunity to present testimony and evidence; and

“(B) take into account—

“(i) the form and amount of action described in paragraph (2) (A), (B), and (C) that would prevent or remedy the injury of threat thereof,

“(ii) the objectives and actions specified in the adjustment plan, if any, submitted under subsection (a)(4),

“(iii) any individual commitment that was submitted to the Commission under subsection (a)(6),

“(iv) any information available to the Commission concerning the conditions of competition in domestic and world markets, and likely developments affecting such conditions during the period for which action is being requested, and

“(v) whether international negotiations may be constructive to address the injury or threat thereof or to facilitate adjustment.

“(6) Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation required to be made under paragraph (1) or that may be made under paragraph (3). Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (c), separate views regarding what action, if any, should be taken under section 203.

“(f) **REPORT BY COMMISSION.**—

“(1) The Commission shall submit to the President a report on each investigation undertaken under subsection (b). The report shall be submitted at the earliest practicable time, but not later

than 180 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

“(2) The Commission shall include in the report required under paragraph (1) the following:

“(A) The determination made under subsection (b) and an explanation of the basis for the determination.

“(B) If the determination under subsection (b) is affirmative, the recommendations for action made under subsection (e) and an explanation of the basis for each recommendation.

“(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

“(D) The findings required to be included in the report under subsection (c)(2).

“(E) A copy of the adjustment plan, if any, submitted under section 201(b)(4).

“(F) Commitments submitted, and information obtained, by the Commission regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition.

“(G) A description of—

“(i) the short- and long-term effects that implementation of the action recommended under subsection (e) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers, and

“(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry is located, and on other domestic industries.

“(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (with the exception of the confidential information obtained under section 202(a)(6)(B) and any other information which the Commission determines to be confidential) and cause a summary thereof to be published in the Federal Register.

Public
information.
Federal
Register,
publication.

“(g) **EXPEDITED CONSIDERATION OF ADJUSTMENT ASSISTANCE PETITIONS.**—If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination. After receiving such notification—

“(1) the Secretary of Labor shall give expedited consideration to petitions by workers in the domestic industry for certification for eligibility to apply for adjustment assistance under chapter 2; and

“(2) the Secretary of Commerce shall give expedited consideration to petitions by firms in the domestic industry for certification of eligibility to apply for adjustment assistance under chapter 3.

“(h) **LIMITATIONS ON INVESTIGATIONS.**—

“(1) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this chapter, unless 1 year has elapsed since

the Commission made its report to the President of the results of such previous investigation.

“(2) If an article was the subject of an investigation under this section that resulted in any action described in section 203(a)(3) (A), (B), (C), or (E) being taken under section 203, no other investigation under this chapter may be initiated with respect to such article while such action is in effect or during the period beginning on the date on which such action terminates that is equal in duration to the period during which such action was in effect.

19 USC 2253.

“SEC. 203. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

“(a) IN GENERAL.—

“(1)(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

“(B) The action taken by the President under subparagraph (A) shall be to such extent, and for such duration, subject to subsection (e)(1), that the President determines to be appropriate and feasible under such subparagraph.

“(C) The interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall, with respect to each affirmative determination reported under section 202(f), make a recommendation to the President as to what action the President should take under subparagraph (A).

“(2) In determining what action to take under paragraph (1), the President shall take into account—

“(A) the recommendation and report of the Commission;

“(B) the extent to which workers and firms in the domestic industry are—

“(i) benefitting from adjustment assistance and other manpower programs, and

“(ii) engaged in worker retraining efforts;

“(C) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Commission under section 201(b)) to make a positive adjustment to import competition;

“(D) the probable effectiveness of the actions authorized under paragraph (3) to facilitate positive adjustment to import competition;

“(E) the short- and long-term economic and social costs of the actions authorized under paragraph (3) relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy;

“(F) other factors related to the national economic interest of the United States, including, but not limited to—

“(i) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided under this chapter,

"(ii) the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles, and

"(iii) the impact on United States industries and firms as a result of international obligations regarding compensation;

"(G) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints;

"(H) the potential for circumvention of any action taken under this section;

"(I) the national security interests of the United States; and

"(J) the factors required to be considered by the Commission under section 202(e)(5).

"(3) The President may, for purposes of taking action under paragraph (1)—

"(A) proclaim an increase in, or the imposition of, any duty on the imported article;

"(B) proclaim a tariff-rate quota on the article;

"(C) proclaim a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) implement one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2;

"(E) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article;

"(F) proclaim procedures necessary to allocate among importers by the auction of import licenses quantities of the article that are permitted to be imported into the United States;

"(G) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat thereof;

"(H) submit to Congress legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition;

"(I) take any other action which may be taken by the President under the authority of law and which the President considers appropriate and feasible for purposes of paragraph (1); and

"(J) take any combination of actions listed in subparagraphs (A) through (I).

"(4) The President shall take action under paragraph (1) within 60 days after receiving a report from the Commission containing an affirmative determination under section 202(b)(1) or a determination under such section which he considers to be an affirmative determination by reason of section 330(d) of the Tariff Act of 1930; except that if a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received.

"(5) The President may, within 15 days after the date on which he receives a report from the Commission containing an

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affirmative determination under section 202(b)(1), request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to the industry in a supplemental report.

"(b) REPORTS TO CONGRESS.—

"(1) On the day the President takes action under subsection (a)(1), the President shall transmit to Congress a document describing the action and the reasons for taking the action. If the action taken by the President differs from the action required to be recommended by the Commission under section 202(e)(1), the President shall state in detail the reasons for the difference.

"(2) On the day on which the President decides that there is no appropriate and feasible action to take under subsection (a)(1) with respect to a domestic industry, the President shall transmit to Congress a document that sets forth in detail the reasons for the decision.

"(3) On the day on which the President takes any action under subsection (a)(1) that is not reported under paragraph (1), the President shall transmit to Congress a document setting forth the action being taken and the reasons therefor.

"(c) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—
If the President reports under subsection (b)(1) or (2) that—

"(1) the action taken under subsection (a)(1) differs from the action recommended by the Commission under section 202(e)(1);
or

"(2) no action will be taken under subsection (a)(1) with respect to the domestic industry;

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the action recommended by the Commission shall take effect (as provided in subsection (c)(2)) upon the enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b)(1) or (2) is transmitted to the Congress.

"(d) TIME FOR TAKING EFFECT OF CERTAIN RELIEF.—

"(1) Except as provided in paragraph (2), any action described in subsection (a)(3)(A), (B), or (C), that is taken under subsection (a)(1) shall take effect within 15 days after the day on which the President proclaims the action, unless the President announces, on the date he decides to take such action, his intention to negotiate one or more orderly marketing agreements in which case the action under subsection (a)(3)(A), (B), or (C) shall be proclaimed and take effect within 90 days after the date of such decision.

"(2) If the contingency set forth in subsection (c) occurs, the President shall, within 30 days after the date of the enactment of the joint resolution referred to in such subsection, proclaim the action recommended by the Commission under section 202(e)(1).

"(e) LIMITATIONS ON ACTIONS.—

"(1)(A) The duration of the period in which action taken under this section may be in effect shall not exceed 8 years.

"(B) If the initial effective period for action taken under this section is less than 8 years, the President may extend the effective period once, but the aggregate of the initial period and the extension may not exceed 8 years.

“(2) Action may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B) only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof.

“(3) No action may be taken under this section which would increase a rate of duty to (or impose a rate) which is more than 50 percent ad valorem above the rate (if any) existing at the time the action is taken.

“(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article.

“(5) To the extent feasible, an effective period of more than 3 years for an action described in subsection (a)(3)(A), (B), or (C) shall be phased down during the period in which the action is taken, with the first reduction taking effect no later than the close of the day which is 3 years after the day on which such action first takes effect.

“(6)(A) The suspension, pursuant to any action taken under this section, of—

“(i) item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article; and

“(ii) the designation of any article as an eligible article for purposes of title V;

shall be treated as an increase in duty.

“(B) No proclamation providing for a suspension referred to in subparagraph (A) with respect to any article may be made by the President, nor may any such suspension be recommended by the Commission under section 203(c), unless the Commission, in addition to making an affirmative determination under section 202(b)(1), determines in the course of its investigation under section 203(a) that the serious injury, or threat thereof, substantially caused by imports to the domestic industry producing a like or directly competitive article results from, as the case may be—

“(A) the application of item 806.30 or item 807.00; or

“(B) the designation of the article as an eligible article for the purposes of title V.

F) ORDERLY MARKETING AND OTHER AGREEMENTS.—

“(1) If the President takes action under this section other than the implementation of orderly marketing agreements, the President may, after such action takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, any action previously taken.

“(2) If an orderly marketing agreement implemented under subsection (a) is not effective, the President may, consistent with the limitations contained in subsection (e), take additional action under subsection (a).

G) REGULATIONS.—

“(1) The President shall by regulation provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under this chapter.

“(2) In order to carry out an orderly marketing or other international agreement concluded under this chapter, the President may prescribe regulations governing the entry or

withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any orderly marketing agreement concluded under this chapter with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President may issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

“(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

19 USC 2254.

“SEC. 204. MONITORING, MODIFICATION, AND TERMINATION OF ACTION.

“(a) MONITORING.—

“(1) So long as any action taken under section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

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“(2) The Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than—

“(A) the 2nd-anniversary of the day on which the action under section 203 first took effect; and

“(B) the last day of each 2-year period occurring after the 2-year period referred to in subparagraph (A).

“(3) In the course of preparing each report under paragraph (2), the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

“(4) Upon request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any extension, reduction, modification, or termination of the action taken under section 203 which is under consideration.

“(b) REDUCTION, MODIFICATION, AND TERMINATION OF ACTION.—

“(1) Action taken under section 203 may be reduced, modified, or terminated by the President (but not before the President receives the report required under subsection (a)(2)(A)) if the President—

“(A) after taking into account any report or advice submitted by the Commission under subsection (a) and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, determines, on the basis that either—

“(i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition, or

“(ii) the effectiveness of the action taken under section 203 has been impaired by changed economic circumstances,

that changed circumstances warrant such reduction, or termination; or

“(B) determines, after a majority of the representatives of the domestic industry submits to the President a petition requesting such reduction, modification, or termination on

such basis, that the domestic industry has made a positive adjustment to import competition.

“(2) Notwithstanding paragraph (1), the President is authorized to take such additional action under section 203 as may be necessary to eliminate any circumvention of any action previously taken under such section.

President of U.S.

“(d) EVALUATION OF EFFECTIVENESS OF ACTION.—

“(1) After any action taken under section 203 has terminated, the Commission shall evaluate the effectiveness of the actions in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b).

“(2) During the course of the evaluation conducted under paragraph (1), the Commission shall, after reasonable public notice, hold a hearing on the effectiveness of the action. All interested persons shall have the opportunity to attend such hearing and to present evidence or testimony at such hearing.

“(3) A report on the evaluation made under paragraph (1) and the hearings held under paragraph (2) shall be submitted by the Commission to the President and to the Congress by no later than the 180th day after the day on which the actions taken under section 203 terminated.

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“(e) OTHER PROVISIONS.—

“(1) Action by the President under this chapter may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

“(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 202(c)(4)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in taking any action authorized under paragraph (1).”

President of U.S.

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(A) section 123(b)(4) is amended by striking out “import relief under section 203(h).” and inserting “action under sections 203(e) and 204.”

19 USC 2133.

(B) Sections 224 and 264 (19 U.S.C. 2274 and 2354) are each amended—

(i) by striking out “201” in subsection (a) and inserting “202”;

(ii) by striking out “201” in subsection (b) and inserting “202(f)”;

such section 264 is amended by striking out “201(b)” in subsection (c) and inserting “202(b)”.

(2) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(A) by striking out “proclaimed pursuant to section 203” in subsection (e)(1) and inserting “provided under chapter 1 of title II”;

(B) by striking out “201(d)(1)” in subsection (e)(2) and inserting “202(f)”;

(C) by striking out “(a) and (c) of section 203” in subsection (e)(3) and inserting “section 203”;

(D) by amending subsection (e)(4)—

(i) by striking out “made under subsections (a) and (c) of section 203” and inserting “taken under section 203”;

(ii) by striking out “201(b)” the first place it appears and inserting “202(b)”; and

(iii) by striking out “section 201(b) of such Act” and inserting “such section”;

(E) by amending subsection (e)(5)—

(i) by striking out “proclamation issued pursuant to section 203” in subparagraph (A) and inserting “action taken under section 203”; and

(ii) by amending subparagraph (B)—

(I) by striking out “to import relief” and inserting “to any such action”;

(II) by striking out “such import relief” and inserting “such action”; and

(III) by striking out “subsections (h) and (i) of section 203” and inserting “section 203”;

(F) by amending subsection (f)(4)—

(i) by amending subparagraph (A) by striking out “proclamation of import relief pursuant to section 202(a)(1)” and inserting “taking of action under section 203”, and

(ii) by amending subparagraph (B) to read as follows:

“(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final.”.

(3) **TRADE AND TARIFF ACT OF 1984.**—

(A) Title IV of the Tariff and Trade Act of 1984 amended—

(i) by amending section 403—

(I) by striking out “section 201(d)(1)” in subsection (b) and inserting “section 202(f)”,

(II) by striking out “subsections (a) and (c) of” subsections (c) and (d),

(III) by striking out “201(b)” in subsection (d) and inserting “202(b)”, and

(IV) by striking out “subsections (h) and (i) of section 203” in subsection (e)(2) and inserting “subsections 203 and 204”; and

(ii) by amending section 404—

(I) by striking out “section 201” in subsection (a) and inserting “section 202(a)”,

(II) by striking out “proclamation of import relief under section 202(a)(1)” in subsection (d)(1) and inserting “taking of action under section 203”, and

(III) by amending subsection (d)(2) to read as follows:

“(2) on the day a determination of the President under section 203 of such Act not to take action becomes final.”.

(4) **TARIFF ACT OF 1930.**—Section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) is amended—

(A) by amending paragraph (1) by striking out “201” and inserting “202”;

19 USC 2112
note.

19 USC 2112
note.

(B) by amending paragraph (2)—

(i) by striking out “201” the first place it appears and inserting “202(b)”;

(iii) by striking out “201(d)(1)” and inserting “202(e)(1)”;

(iv) by striking out “sections 202 and 203” each place it appears and inserting “section 203”, and

(v) by striking out “203(b)” in subparagraph (B) and inserting “204(a)”;

(C) by striking out “203(c)(1)” in paragraph (4) and inserting “203(a)”.

(5) TABLE OF CONTENTS.—The entry for such chapter 1 in the table of contents to the Trade Act of 1974 is amended to read as follows:

“CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

- c. 201. Action to facilitate positive adjustment to import competition.
- c. 202. Investigations, determinations, and recommendations by Commission.
- c. 203. Action by President after determination of import injury.
- c. 204. Monitoring, modification, and termination of action.”.

c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and all apply with respect to investigations initiated under chapter 1 title II of the Trade Act of 1974 on or after that date. Any petitioned under section 201 of such chapter before such date of enactment, and with respect to which the United States International Trade Commission did not make a finding before such date with respect to serious injury or the threat thereof, may be withdrawn and refiled, without prejudice, by the petitioner under section 202(a) of such chapter (as amended by this section). 19 USC 2251 note.

PART 2—MARKET DISRUPTION

C. 1411. MARKET DISRUPTION.

(a) IN GENERAL.—Section 406 of the Trade Act of 1974 (19 U.S.C. 36) is amended as follows—

(1) Subsection (b) is amended to read as follows:

“(b) With respect to any affirmative determination of the Commission under subsection (a)—

“(1) such determination shall be treated as an affirmative determination made under section 201(b) of this Act (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

“(2) sections 202 and 203 of this Act (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of chapter 1 of title II of this Act as amended by section 1401 of such Act of 1988, shall apply with respect to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

“(A) the President may take action under such sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

“(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.”.

(2) Subsection (c) is amended by inserting "referred to in subsection (b)" after "sections 202 and 203".

(3) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by inserting at the end thereof the following new subparagraphs:

"(B) For purposes of subparagraph (A):

"(i) Imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time.

"(ii) The term 'significant cause' refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

"(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

"(i) the volume of imports of the merchandise which is the subject of the investigation;

"(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

"(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

"(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns."

(b) CONFORMING AMENDMENTS REQUIRED BY AMENDMENT OF CHAPTER 1 OF TITLE II OF THE TRADE ACT OF 1974.—Such section 406 is further amended—

(1) by striking out "201(a)(1)" in subsection (a)(1) and subsection (d) and inserting "202(a)"; and

(2) by striking out "subsections (a)(2), (b)(3), and (c) of section 201" in subsection (a)(2) and inserting "subsections (a)(3), (b)(4), and (c)(4) of section 202".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations initiated under section 406(a) of the Trade Act of 1974 on or after the date of the enactment of this Act.

PART 3—TRADE ADJUSTMENT ASSISTANCE

SEC. 1421. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) OIL AND NATURAL GAS INDUSTRY.—

(1)(A) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(i) by striking out "For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important, but not necessarily more important than any other cause.",

(ii) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(iii) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(3)—

19 USC 2436.

19 USC 2436
note.

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“(1) The term ‘contributed importantly’ means a cause which is important but not necessarily more important than any other cause.

“(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

“(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.”

(B) Notwithstanding section 223(b) of the Trade Act of 1974, or any other provision of law, any certification made under subchapter A of chapter 2 of title II of such Act which—

19 USC 2272
note.

(i) is made with respect to a petition filed before the date that is 90 days after the date of enactment of this Act, and

(ii) would not have been made if the amendments made by subparagraph (A) had not been enacted into law, shall apply to any worker whose most recent total or partial separation from the firm, or appropriate subdivision of the firm, described in section 222(a) of such Act occurs after September 30, 1985.

(2) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

“(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

“(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

“(B) that—

“(i) sales or production, or both, of such firm have decreased absolutely, or

“(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

“(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

“(2) For purposes of paragraph (1)(C)—

“(A) The term ‘contributed importantly’ means a cause which is important but not necessarily more important than any other cause.

“(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

“(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.”

(b) APPLICATION TO ALL INDUSTRIES.—

(1) Paragraph (3) of section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)(3)) is amended to read as follows:

“(3) increases of imports of articles like or directly competitive with articles—

“(A) which are produced by such workers’ firm or appropriate subdivision thereof, or

“(B) for which such workers’ firm, or appropriate subdivision thereof, provides essential goods or essential services, contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.”.

(2) Subparagraph (C) of section 251(c)(1) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(C)) is amended to read as follows:

“(C) increases of imports of articles like or directly competitive with articles—

“(i) which are produced by such firm, or

“(ii) for which such firm provides essential goods or essential services, contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.”.

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SEC. 1422. NOTICE TO WORKERS OF BENEFITS UNDER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended—

(1) by striking out “The Secretary” in the first sentence and inserting in lieu thereof “(a) The Secretary”, and

(2) by adding at the end thereof the following new subsection:

Mail.

“(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

“(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

“(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

“(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A in newspapers of general circulation in the areas in which such workers reside.”.

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SEC. 1423. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN TRAINING PROGRAM REQUIRED.—

(1) Paragraph (5) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)) is amended to read as follows:

“(5) Such worker—

“(A) is enrolled in a training program approved by the Secretary under section 236(a),

“(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

“(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).”.

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

“(b)(1) If—

“(A) the Secretary determines that—

“(i) the adversely affected worker—

“(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

“(II) has ceased to participate in such training program before completing such training program, and

“(ii) there is no justifiable cause for such failure or cessation, or

“(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

“(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

“(B) before the first week following the week in which such certification is made under subchapter (A).”.

(3) Subsection (c) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

“(i) submit to such worker a written statement certifying such finding, and

“(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible and appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is not feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.”.

State and local
governments.
Contracts.

Reports.

(4) Paragraph (3) of section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)(3)) is amended to read as follows:

“(3) will make any certifications required under section 231(c)(2), and”.

(b) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out “, including on-the-job training,” in subsection (b), and

(2) by striking out “under section 231(c) or 236(c)” in subsection (c) and inserting in lieu thereof “under section 231(b)”.

(c) LIMITATIONS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) by striking out “is approved” in subsection (a)(3)(B) and inserting in lieu thereof “begins”,

(2) by striking out “engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training” in subsection (a)(3) and inserting in lieu thereof “participating in such training”, and

(3) by adding at the end thereof the following new subsection:
“(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

“(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

“(2) the break is provided under such training program.”.

(d) SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.—

(1) Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 245 the following new section:

19 USC 2318.

“SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.

“(a) The Secretary shall establish and carry out one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

“(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

“(2) determining the effectiveness of a supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

“(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

“(b)(1) For purposes of this section, the term ‘supplemental wage allowance’ means a payment that is made to an adversely affected worker who—

“(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment,

“(B) prior to such acceptance, is eligible for trade readjustment allowances under part I of subchapter B, and

“(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise

be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

"(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

"(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

"(B) the excess of—

"(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

"(ii) the average weekly wage in the full-time employment.

(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

"(i) the amount of the limitation imposed under section 233(a)(1) with respect to such worker for such period, over

"(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

"(c) The Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following:

"(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

"(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

"(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

"(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

"(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

"(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

"(d) By no later than the date that is 3 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes—

"(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

"(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an

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19 USC 2318
note.

option for some or all workers eligible for assistance under this chapter.”.

(2) For purposes of funding the demonstration projects established under section 246(a) of the Trade Act of 1974, as added by paragraph (1) of this subsection—

(A) the supplemental wage allowances payable under such projects shall be considered to be trade readjustment allowances payable under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and

(B) the costs of administering such projects by the States shall be considered to be costs of administering such part I.

(3) The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 245 the following new item:

“Sec. 246. Supplemental wage allowance demonstration projects.”.

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SEC. 1424. JOB TRAINING FOR WORKERS.

(a) **IN GENERAL.**—Subsection (a) of section 236 of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(1) by striking out “is available” in paragraph (1)(D) and inserting in lieu thereof “is reasonably available”,

(2) by striking out “, and” at the end of subparagraph (D) of paragraph (1),

(3) by adding “and” at the end of subparagraph (E) of paragraph (1),

(4) by inserting after subparagraph (E) of paragraph (1) the following new subparagraph:

“(F) such training is suitable for the worker and available at a reasonable cost,”,

(5) by striking out “(to the extent appropriated funds are available)” in the first sentence of paragraph (1),

(6) by inserting “(subject to the limitations imposed by this section)” after “costs of such training” in the second sentence of paragraph (1),

(7) by inserting “directly or through a voucher system” after “by the Secretary” in the second sentence of paragraph (1),

(8) by striking out “and” at the end of subparagraph (C) of paragraph (4),

(9) by redesignating subparagraph (D) of paragraph (4) as subparagraph (F) of paragraph (4),

(10) by inserting after subparagraph (C) of paragraph (4) the following new subparagraphs:

“(D) any program of remedial education,

“(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

“(i) under any Federal or State program other than this chapter, or

“(ii) from any source other than this section, and”,

(11) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(12) by inserting after paragraph (1) the following new paragraph:

“(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed \$80,000,000.

“(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved

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under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of each fiscal year.” and

(13) by adding at the end of subsection (a) the following new paragraphs:

“(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

“(i) under any Federal or State program other than this chapter, or

“(ii) from any source other than this section.

“(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in subparagraph (A) or (B) of paragraph (1). Contracts.

“(7) The Secretary shall not approve a training program if—

“(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

“(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

“(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

“(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

“(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).” Regulations.

(b) **DELAYED INCREASE IN LIMITATION.**—Paragraph (2) of section 6(a) of the Trade Act of 1974, as added by subsection (a)(12) of this section, is amended by striking out “\$80,000,000” in subparagraph (b) and inserting in lieu thereof “\$120,000,000”.

(c) **ON-THE-JOB TRAINING.**—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out that portion of subsection (d) that precedes paragraph (1) and inserting in lieu thereof the following:

“(d) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—”,

(2) by striking out subsection (c), and

(3) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(d) **AGREEMENTS WITH THE STATES.**—

(1)(A) Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by striking out “cooperating State agencies” and inserting in lieu thereof “the States”.

(B) Subsection (e) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended to read as follows:

“(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.”.

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(f)) is amended to read as follows:

“(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

“(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

“(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

“(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

“(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.”.

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SEC. 1425. LIMITATION ON PERIOD IN WHICH TRADE READJUSTMENT ALLOWANCES MAY BE PAID.

(a) IN GENERAL.—Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended to read as follows:

“(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

“(A) within the period which is described in section 231(a)(1), and

“(B) with respect to which the worker meets the requirements of section 231(a)(2).”.

19 USC 2293
note.

(b) WAIVER OF CERTAIN TIME LIMITATIONS.—

(1) The provisions of subsections (a)(2) and (b) of section 233 of the Trade Act of 1974 shall not apply with respect to any worker who became totally separated from adversely affected employment (within the meaning of section 247 of such Act) during the period that began on August 13, 1981, and ended on April 7, 1986.

(2)(A) Any worker who is otherwise eligible for payment of a trade readjustment allowance under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 by reason of

paragraph (1) of this subsection may receive payments of such allowance only if such worker—

(i) is enrolled in a training program approved by the Secretary under section 236(a) of such Act, and

(ii) has been unemployed continuously since the date on which the worker became totally separated from the adversely affected employment, not taking into account seasonal employment, odd jobs, or part-time, temporary employment.

(B) If the Secretary of Labor determines that—

(i) a worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subparagraph (A), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation,

no trade readjustment allowance may be paid to the worker under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 for the week in which such failure or cessation occurred, or any succeeding week, until the worker begins or resumes participation in a training program approved under section 236(a) of such Act.

C. 1426. AUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

a) EXTENSION OF SUNSET.—Subsection (b) of section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended to read as follows:

“(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 7, after September 30, 1993.”

b) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out “1986, 1987, 1988, 1989, 1990, and 1991” and inserting in lieu thereof “1988, 1989, 1990, 1991, 1992, and 1993”.

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking out “1986, 1987, 1988, 1989, 1990, and 1991” and inserting in lieu thereof “1988, 1989, 1990, 1991, 1992, and 1993”.

c) SPECIAL RULE.—In addition to amounts appropriated for payments under sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2296) for fiscal year 1988, such amounts as may be necessary for payments under such sections—

(1) after the date of enactment of this Act, and

(2) before October 1, 1988,

shall be hereby appropriated and shall be charged to the appropriation for payments under such sections for fiscal year 1989.

C. 1427. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

19 USC 2396.

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or appropriated to the Trust Fund under subsection (e).

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

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"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

Securities.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available—

"(A) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any other provision of Federal law,

"(B) as provided in appropriation Acts—

"(i) for expenditures that are required to carry out the provisions of chapters 2 and 3, including administrative costs, and

"(ii) for payments required under subsection (e)(2).

"(2) None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.

(A) If the total amount of funds expended in any fiscal year to carry out chapters 2 and 3 (including administrative costs) exceeds an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed by section 287 during the preceding 1-year period, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury) shall, notwithstanding any provision of chapter 2 or 3, make a pro rata reduction in—

“(i) the amounts of the trade readjustment allowances that are paid under part I of subchapter B of chapter 2, and

“(ii) the assistance provided under chapter 3, to the extent the amount of revenue that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and for the fiscal year succeeding such fiscal year) to all workers and firms eligible for assistance under chapter 2 or 3, to the extent that the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and the fiscal year succeeding such fiscal year do not exceed the amount of funds available in the Trust Fund to pay such expenditures.

(B) No reduction may be made under this paragraph in the amount of any trade readjustment allowance payable under part I of subchapter B of chapter 2 to any worker who received such trade readjustment allowance under such part for the week preceding the week for which such reduction is otherwise being made under this paragraph.

(C) If a pro rata reduction made under subparagraph (A) is in effect at the close of a fiscal year, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, may adjust or modify such reduction at the beginning of the fiscal year succeeding such fiscal year, based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during that succeeding fiscal year.

(D) Any pro rata reduction made under subparagraph (A), and any pro rata reduction adjusted or modified under subparagraph (C), shall cease to apply after the week in which—

“(i) a 1-year period ends during which the total amount of funds that would have been expended to carry out chapters 2 and 3, including administrative costs, if such reduction were not in effect did not exceed an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed during such 1-year period, or

“(ii) the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, determine that the amount of funds available in the Trust Fund are sufficient to carry out chapters 2 and 3 without such reduction.

(1)(A) There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (B).

Appropriation
authorization.

(B) Any advance appropriated to the Trust Fund under the authority of subparagraph (A) may be paid to the Trust Fund only to the extent that the total amount of advances paid during the fiscal year exceeds the amount of funds available in the Trust Fund from any appropriation authorized under

subparagraph (A) that are outstanding after such advance is paid to the Trust Fund does not exceed the lesser of—

“(i) the excess of—

“(I) the total amount of funds that the Secretary of the Treasury (in consultation with the Secretary of Labor and the Secretary of Commerce) estimates will be necessary for the payments and expenditures described in subparagraphs (A) and (B) of subsection (d)(1) for such fiscal year, over

“(II) the total amount of funds that the Secretary of the Treasury estimates will be available in the Trust Fund during the fiscal year (determined without regard to any advances made under this subsection during such fiscal year), or

“(ii) the excess of—

“(I) an amount equal to 0.15 percent of the total value of all articles upon which the Secretary of the Treasury estimates a duty will be imposed by section 287 during such fiscal year, over

“(II) the amount described in clause (i)(II).

“(2) Advances made to the Trust Fund from appropriations authorized under paragraph (1)(A) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury of the United States when the Secretary of the Treasury determines that sufficient funds are available in the Trust Fund for such purposes.

“(3) Interest on advances made from appropriations authorized under paragraph (1)(A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.”.

(b) **CONFORMING AMENDMENT.**—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

“Sec. 286. Trade Adjustment Trust Fund.

“Sec. 287. Imposition of additional fee.”.

President of U.S.
19 USC 2397
note.

SEC. 1428. IMPOSITION OF SMALL UNIFORM FEE ON ALL IMPORTS.

(a) **NEGOTIATIONS.**—

(1) The President shall—

(A) undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform fee of not more than 0.15 percent on all imports to such country for the purpose of using the revenue from such fee to fund programs which directly assist adjustment to import competition, and

(B) undertake negotiations with any foreign country that has entered into a free trade agreement with the United States under subtitle A or under section 102 of the Trade Act of 1974 to obtain the consent of such country to the imposition of such a fee by the United States.

(2) In the report that is submitted under section 163 of the Trade Act of 1974 for 1989 and 1990, the President shall include a statement on the progress of negotiations conducted under paragraph (1).

(3)(A) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a fee described in paragraph (1), the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such allowance.

Federal
Register,
publication.

(B) On the first day after the date of enactment of this Act on which any foreign country described in paragraph (1)(B) consents to the imposition of such a fee by the United States, the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such consent.

(4) If—

(A) the President does not submit to the Congress the written statement described in paragraph (3)(A) before the date that is 2 years after the date of enactment of this Act, and

(B) the President determines on such date that the fee imposed by the amendment made by subsection (b) is not in the national economic interest,

the President shall submit to the Congress, and publish in the Federal Register, written notice of such determination on such date.

Federal
Register,
publication.

(5)(A) Any disapproval resolution that is introduced in the Senate or House of Representatives within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act shall, for purposes of section 152 of the Trade Act of 1974 (19 U.S.C. 2192), be treated as a joint resolution described in section 152(a)(1)(A) of such Act.

(B) For purposes of this part, the term “disapproval resolution” means a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: “That the Congress disapproves of the determination made by the President under section 1428(a)(4)(A) of the Omnibus Trade and Competitiveness Act of 1988.”

(c) IMPOSITION OF FEE.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by the preceding section of this Act, is further amended by adding at the end thereof the following new section:

C. 287. IMPOSITION OF ADDITIONAL FEE.

19 USC 2397.

(a) In addition to any other fee imposed by law, there is hereby imposed a fee on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States during any fiscal year.

b(1) The rate of the fee imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President that is equal to the lesser of—

“(A) 0.15 percent, or

“(B) the percentage that is sufficient to provide the funding necessary to—

“(i) carry out the provisions of chapters 2 and 3, and

“(ii) repay any advances made under section 286(e).

(2) The President shall issue a proclamation setting forth the amount of the fee imposed by subsection (a) by no later than the date that is 15 days before the first date on which a fee is imposed under subsection (a).

President of U.S.

(3)(A) For each fiscal year succeeding the first fiscal year in which a fee is imposed under subsection (a), the President shall issue

President of U.S.

a proclamation adjusting the rate of the fee imposed by subsection (a) during such fiscal year to the ad valorem rate that meets the requirements of paragraph (1) for such fiscal year.

“(B) Any proclamation issued under subparagraph (A) for a fiscal year shall be issued at least 30 days before the beginning of such fiscal year.

“(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of a fee with respect to such article by subsection (a).

“(2) No fee shall be imposed by subsection (a) with respect to—

“(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty-free under schedule 8 of the Tariff Schedules of the United States, or

“(B) any article which has a value of less than \$1,000.”.

SEC. 1429. STUDY OF CERTIFICATION METHODS.

(a) **IN GENERAL.**—The Secretary of Labor, in consultation with the Secretary of Commerce, shall conduct a study of the methods (including, but not limited to, industry-wide certification) that could be used to expedite the certification of workers under subchapter A of chapter 2 of title II of the Trade Act of 1974.

(b) **REPORT.**—By no later than the date that is 6 months after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report on the study conducted under subsection (a). The report shall include the recommendations of the Secretary of Labor regarding the methods that are the subject of the study conducted under subsection (a).

19 USC 2397
note.

SEC. 1430. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as otherwise provided by this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) **ADDITIONAL FEE.**—

(1) Except as otherwise provided in this subsection, the amendment made by section 1428(b) shall apply (if at all) to any article entered, or withdrawn from warehouse for consumption, after the date that is 30 days after the earlier of—

(A) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(A),

(B) the date that is 2 years after the date of enactment of this Act, or

(C) the date of the enactment of a disapproval resolution that passes both Houses of the Congress within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act.

(2) If the President determines on the date that is 2 years after the date of enactment of this Act that the fee imposed by the amendment made by section 1428(b) is not in the national economic interest, subparagraph (B) of paragraph (1) shall not be taken into account in applying the provisions of paragraph (1).

(3) The amendment made by section 1428(b) shall apply (if at all) to the products of any foreign country described in section

1428(a)(1)(B) that are entered, or withdrawn from warehouse for consumption, after the later of—

(A) the first date on which the fee imposed by such amendment applies with respect to products of foreign countries that are not described in section 1428(a)(1)(B), or

(B) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(B) certifying the consent of such foreign country to the imposition of the fee.

(c) TRUST FUND.—The amendments made by section 1427 shall take effect on the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(d) ELIGIBILITY OF WORKERS AND FIRMS.—The amendments made by sections 1421(b) and 1424(b) shall take effect on the date that is 1 year after the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(e) NOTIFICATION REQUIREMENTS.—The amendments made by section 1422 shall take effect on the date that is 30 days after the date of enactment of this Act.

(f) TRAINING REQUIREMENT.—The amendments made by subsections (a), (b)(2), and (c)(2) of section 1423 and by paragraphs (2) and (3) of section 1424(c) shall take effect on the date that is 90 days after the date of enactment of this Act.

(g) LIMITATION ON PERIOD FOR WHICH TRADE READJUSTMENT ALLOWANCES MAY BE MADE.—The amendment made by section 1425(a) shall not apply to with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such Act) that occurs before the date of enactment of this Act if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974.

Subtitle E—National Security

SEC. 1501. IMPORTS THAT THREATEN NATIONAL SECURITY.

(a) IN GENERAL.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) by striking out “subsection (b)” each place it appears in subsection (e) and inserting in lieu thereof “subsection (c)”,

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(3) by striking out subsection (b) and inserting in lieu thereof the following new subsections:

“(b)(1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the ‘Secretary’) shall immediately initiate an appropriate investigation to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

“(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

“(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

“(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

“(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

“(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

“(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

Reports.

“(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

Federal
Register,
publication.
Regulations.

“(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

“(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

President of U.S.

“(c)(1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

“(i) determine whether the President concurs with the finding of the Secretary, and

“(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

“(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

“(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1), the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

“(3)(A) If—

“(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

“(ii) either—

“(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

“(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article, President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph.

Federal
Register,
publication.

(B) If—

“(i) clauses (i) and (ii) of subparagraph (A) apply, and

“(ii) the President determines not to take any additional actions under this subsection, President shall publish in the Federal Register such determination and the reasons on which such determination is based.”.

b) REPORTS.—

(1) Subsection (e) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as redesignated by subsection (a)(2), is amended to read as follows:

(d)(1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition.

Federal
Register,
publication.

(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.”.

President of U.S.

(2) Section 127 (c) of the Trade Act of 1974 (19 U.S.C. 1863) is repealed.

c) ENFORCEMENT OF MACHINE TOOL IMPORT ARRANGEMENTS.—

(1) The Secretary of Commerce is authorized to request the Secretary of the Treasury to carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of the machine tool decision of the President on May 20, 1986, and to enforce any quantitative limitation, restriction, or other terms contained in related bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of assembled and unassembled machine tool products.

(2) For purposes of this subsection, the term “related bilateral arrangement” means any arrangement, agreement, or understanding entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of assembled and unassembled machine tool products as may be necessary to implement such machine tool decision of May 20, 1986.

d) APPLICATION OF AMENDMENTS.—

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to investigations initiated under section 232(b) of the Trade Expansion Act of 1962 on or after the date of enactment of this Act.

19 USC 1862
note.

President of U.S.

(2) The provisions of subsection (c) of section 232 of the Trade Expansion Act of 1962, as amended by this section, shall apply with respect to any report submitted by the Secretary of Commerce to the President under section 232(b) of such Act after the date of enactment of this Act.

(3) By no later than the date that is 90 days after the date of enactment of this Act, the President shall make the determinations described in section 232(c)(1)(A) of the Trade Expansion Act of 1962, as amended by this section, with respect to any report—

(A) which was submitted by the Secretary of Commerce to the President under section 232(b) of such Act before the date of enactment of this Act, and

(B) with respect to which no action has been taken by the President before the date of enactment of this Act.

Subtitle F—Trade Agencies; Advice, Consultation, and Reporting Regarding Trade Matters

PART 1—FUNCTIONS AND ORGANIZATION OF TRADE AGENCIES

Subpart A—Office of the United States Trade Representative

SEC. 1601. FUNCTIONS.

(a) **IN GENERAL.**—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) by amending paragraph (1) to read as follows:

“(c)(1) The United States Trade Representative shall—

“(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

“(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

“(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including commodity and direct investment negotiations, in which the United States participates;

“(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

“(E) act as the principal spokesman of the President on international trade;

“(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

“(G) advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

“(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

“(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

“(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

“(2) It is the sense of Congress that the United States Trade Representative should—

“(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

“(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.”.

b) UNFAIR TRADE PRACTICES.—Such section 141 is further ended— 19 USC 2171.

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

“(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

“(A) coordinate the application of interagency resources to specific unfair trade practice cases;

“(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

“(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

“(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

“(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

“(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

"(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

"(A) The Bureau of Economics and Business Affairs of the Department of State.

"(B) The United States and Foreign Commercial Services of the Department of Commerce.

"(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

"(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

"(3) For purposes of this subsection, the term 'unfair trade practice' means any act, policy, or practice that—

"(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

"(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

"(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

"(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974."

Subpart B—United States International Trade Commission

SEC. 1611. SERVICE ON COMMISSION FOR PURPOSES OF DETERMINING ELIGIBILITY FOR DESIGNATION AS CHAIRMAN.

Section 330(c)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1330(c)(A)(i)) is amended by striking out "most recently appointed to" and inserting "with the shortest period of service on".

SEC. 1612. TREATMENT OF COMMISSION UNDER PAPERWORK REDUCTION ACT.

Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by adding at the end thereof the following new subsection:

"(f) The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44, United States Code."

SEC. 1613. TREATMENT OF CONFIDENTIAL INFORMATION BY COMMISSION.

The first sentence of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by striking out ", and shall report to Congress" and inserting ". However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential

business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress.”.

Reports.

SEC. 1614. TRADE REMEDY ASSISTANCE OFFICE.

Section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) is amended—

(1) by amending subsection (a)—

(A) by striking out “a Trade” and inserting “a separate office to be known as the Trade”, and

(B) by striking out “, upon request, concerning—” and inserting “upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—”; and

(2) by amending subsection (b) to read as follows:

“(b) The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

“(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

“(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.”.

Subpart C—Interagency Trade Organization

SEC. 1621. FUNCTIONS AND ORGANIZATION.

(a) **IN GENERAL.**—Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a)(1) The President shall establish an interagency organization.

President of U.S.

“(2) The functions of the organization are—

“(A) to assist, and make recommendations to, the President in carrying out the functions vested in him by the trade laws and to advise the United States Trade Representative (hereinafter in this section referred to as the ‘Trade Representative’) in carrying out the functions set forth in section 141 of the Trade Act of 1974;

“(B) to assist the President, and advise the Trade Representative, with respect to the development and implementation of the international trade policy objectives of the United States; and

“(C) to advise the President and the Trade Representative with respect to the relationship between the international trade policy objectives of the United States and other major policy areas which may significantly affect the overall international trade policy and trade competitiveness of the United States.

“(3) The interagency organization shall be composed of the following:

“(A) The Trade Representative, who shall be chairperson.

“(B) The Secretary of Commerce.

“(C) The Secretary of State.

“(D) The Secretary of the Treasury.

“(E) The Secretary of Agriculture.

“(F) The Secretary of Labor.

The Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject

matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.”.

(2) Subsection (b) is amended by adding at the end thereof the following:

“In carrying out its functions under this subsection, the organization shall take into account the advice of the congressional advisers and private sector advisory committees, as well as that of any committee or other body established to advise the department, agency, or office which a member of the organization heads.”.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the interagency organization established under subsection (a) should be the principal interagency forum within the executive branch on international trade policy matters.

PART 2—ADVICE AND CONSULTATION REGARDING TRADE POLICY, NEGOTIATIONS, AND AGREEMENTS

SEC. 1631. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS RELATING TO TRADE POLICY AND AGREEMENTS.

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended to read as follows:

“SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

“(a) IN GENERAL.—

“(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

“(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 1102 of the Omnibus Trade and Competitiveness Act of 1988;

“(B) the operation of any trade agreement once entered into; and

“(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

“(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

“(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

“(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

“(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

“(D) Important developments in other areas of trade for which there must be developed a proper policy response.

“(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

“(b) **ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.**—

President of U.S.

“(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

“(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

“(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

“(c) **GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.**—

“(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

“(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

President of U.S.

(A) consult with interested private organizations; and

“(B) take into account such factors as—

“(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

“(ii) the character of the nontariff barriers and other distortions affecting such competition,

“(iii) the necessity for reasonable limits on the number of such advisory committees,

“(iv) the necessity that each committee be reasonably limited in size, and

“(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

“(3) The President—

“(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

“(i) on matters referred to in subsection (a), and

“(ii) with respect to implementation of trade agreements, and

President of U.S.

“(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

“(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

“(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

Reports.

“(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

“(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 1102 of the Omnibus Trade and Competitive Business Act of 1988, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitive Business Act of 1988 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement.

“(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal

negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988, as appropriate.

“(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

“(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

“(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

“(2) to all other advisory committees which may be established under subsection (c); except that the meetings of advisory committees established under subsections (b) and (c) shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a), and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c).

“(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

“(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

“(A) officers and employees of the United States designated by the United States Trade Representative;

“(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

“(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

“(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsec-

tion (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

“(A) the individuals described in paragraph (1); and

“(B) the appropriate advisory committee established under this section.

“(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

“(h) **ADVISORY COMMITTEE SUPPORT.**—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

“(i) **CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.**—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

“(1) significant issues and developments; and

“(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

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“(j) **PRIVATE ORGANIZATIONS OR GROUPS.**—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer

interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

“(k) **SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.**—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

“(l) **ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.**—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

“(m) **NON-FEDERAL GOVERNMENT DEFINED.**—As used in this section, the term ‘non-Federal government’ means—

“(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

“(2) any agency or instrumentality of any entity described in paragraph (1).”.

SEC. 1632. CONGRESSIONAL LIAISON REGARDING TRADE POLICY AND AGREEMENTS.

Section 161 of the Trade Act of 1974 (19 U.S.C. 2211) is amended to read as follows:

SEC. 161. CONGRESSIONAL ADVISERS FOR TRADE POLICY AND NEGOTIATIONS.

“(a) **SELECTION.**—

“(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

“(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

“(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee

of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

“(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations.

Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

“(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

“(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

“(ii) the chairman and ranking minority member of the committee from which the member will be selected.

“(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

“(b) BRIEFING.—

“(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

“(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

“(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

“(B) The Chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

“(c) COMMITTEE CONSULTATION.—The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

"(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

"(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

"(4) The important developments and issues in other areas of trade for which there must be developed proper policy response. When necessary, meetings shall be held with each Committee in a joint session to review matters under negotiation."

PART 3—ANNUAL REPORTS AND NATIONAL TRADE POLICY AGENDA

C. 1641. REPORTS AND AGENDA.

Section 163 of the Trade Act of 1974 (19 U.S.C. 2213) is amended to read as follows:

SEC. 163. REPORTS.

"(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—

"(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on—

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"(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

"(B) the national trade policy agenda for the year in which the report is submitted.

"(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

"(A) new trade negotiations;

"(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

"(C) reciprocal concessions obtained;

"(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

"(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

"(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

"(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

"(H) the measures being taken to seek the removal of other significant foreign import restrictions;

(I) each of the referrals made under section 141(d)(1)(B) and any action taken with respect to such referral;

“(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

“(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

“(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

“(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

“(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

“(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

“(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

“(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

“(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 135 and shall consult with the appropriate committees of the Congress.

“(D) The United States Trade Representative (hereafter referred to in this section as the ‘Trade Representative’) and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

“(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

“(ii) any development which may require, or result in, changes to any of such objectives or priorities.

“(b) ANNUAL TRADE PROJECTION REPORT.—

“(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the ‘Committees’) on or before March 1 of each year a report which consists of—

“(A) a review and analysis of—

“(i) the merchandise balance of trade,

“(ii) the goods and services balance of trade,

“(iii) the balance on the current account,

“(iv) the external debt position,

“(v) the exchange rates,

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information.

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“(vi) the economic growth rates,
“(vii) the deficit or surplus in the fiscal budget, and
“(viii) the impact on United States trade of market barriers and other unfair practices,
of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

“(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

“(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

“(2) To the extent that subjects referred to in paragraph (1) (A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

“(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

“(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

“(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

“(c) ITC REPORTS.—The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.”.

Subtitle G—Tariff Provisions

PART 1—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 1701. REFERENCE.

Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

SEC. 1711. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

(a) IN GENERAL.—Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 having the same degree of indentation as the article description for item 338.40:

“	338.60	Containing 85% or more by weight of continuous man-made fibers	17% ad val.	8.5% ad val. (I)	81% ad val.	”.
		Other:				
	338.70	Weighing not more than 5 oz. per square yard.....	17% ad val.	8.5% ad val. (I)	81% ad val.	
	338.80	Other.....	17% ad val.	8.5% ad val. (I)	81% ad val.	

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 338.50 of the Tariff Schedules of the United States (as in effect before the date of enactment of this Act) that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 338.60, 338.70, and 338.80 of such Schedules.

SEC. 1712. NAPHTHA AND MOTOR FUEL BLENDING STOCKS.

Part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting “motor fuel blending stocks,” immediately after “except”;

(2) by amending headnote 2—

(A) by striking out “and” at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting “; and”; and

(C) by adding at the end thereof the following:

“(c) ‘Motor fuel blending stock’ (item 475.27) means any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.”;

(3) by inserting in numerical sequence the following new item with an article description having the same degree of indentation as the article description for item 475.30:

“	475.27	Motor fuel blending stocks	1.25¢ per gal.	2.5¢ per gal.	”.
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(4) by amending 475.30 by striking out “fuel” and inserting “fuel or motor fuel blending stocks”; and

(5) by amending 475.35 by striking out “fuel” and inserting in lieu thereof “fuel or motor fuel blending stocks”.

SEC. 1713. WATCHES AND WATCH COMPONENTS.

Headnote 4 of subpart E of part 2 of schedule 7 is amended to read as follows:

“4. Special Marking Requirements: Any movement or case provided for in this subpart, whether imported separately or attached to any article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting,

e-sinking, engraving, stamping, or mold-marking (either indented raised), as specified below:

“(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

“(i) the name of the country of manufacture;

“(ii) the name of the manufacturer or purchaser; and

“(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

“(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

“(i) the name of the country of manufacture;

“(ii) the name of the manufacturer or purchaser; and

“(iii) the number of jewels, if any.

“(c) Watch cases shall be marked on the inside or outside of the back case to show—

“(i) the name of the country of manufacture; and

“(ii) the name of the manufacturer or purchaser.

“(d) Clock cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture.”.

C. 1714. SLABS OF IRON OR STEEL.

Headnote 3(c) to subpart B of part 2 of schedule 6 is amended by striking out “and not over 6 inches”.

C. 1715. CERTAIN WORK GLOVES.

(a) Headnote 5(a) to schedule 3 is amended by striking out “(except subpart A)” and inserting in lieu thereof “(except subparts A and B)”.

(b) Headnote 1 to subpart C of part 1 of schedule 7 of the Tariff Schedules of the United States is amended—

(1) by striking out “and” at the end of subdivision (b),

(2) by striking out the period at the end of subdivision (c) and inserting in lieu thereof “; and”, and

(3) by adding after subdivision (c) the following new subdivision:

“(d) gloves which are—

“(i) other than gloves with fourchettes, and

“(ii) constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn,

shall be regarded as gloves of textile materials.”.

C. 1716. DUTY-FREE IMPORTATION OF HATTER'S FUR.

(a) IN GENERAL.—Subpart D of part 15 of schedule 1 is amended—

(1) by striking out “use, and carroted furskins” in item 186.20 and inserting in lieu thereof “use”,

(2) by striking out “15% ad val.” in item 186.20 and inserting in lieu thereof “Free”,

(3) by striking out “Free (A,E) 4.8% ad val. (I)” in item 186.20, and

(4) by inserting after item 186.20 the following new item with the article description having the same degree of indentation as the article description in item 186.20:

186.22	Carroted furskins	15% ad. val.	Free (A,E) 4.8% ad val. (I)	35% ad val.	”.
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(b) **STAGED RATE REDUCTION.**—Any staged rate reduction of a rate of duty set forth in item 186.20 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rate of duty set forth in item 186.22 of such Schedules.

SEC. 1717. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS.

Item 709.15 is amended by inserting “other than extracorporeal shock wave lithotripters,” before “and”.

SEC. 1718. SALTED AND DRIED PLUMS.

(a) **IN GENERAL.**—Subpart B of part 9 of schedule 1 is amended by striking out item 149.28 and inserting in lieu thereof the following items with the article descriptions having the same degree of indentation as the article description in item 149.26:

“	149.27	Soaked in brine and dried. Otherwise prepared or preserved.....	2¢ per lb.	Free (E,I)	2¢ per lb.	”.
	149.29		17.5% ad val.	Free (E) 5.6% ad val. (I)	35% ad val.	

(b) **STAGED RATE REDUCTION.**—Any staged rate reduction of a rate of duty set forth in item 149.28 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 149.27 and 149.29 of such Schedules.

SEC. 1719. TELEVISION APPARATUS AND PARTS.

(a) **PERMANENT TREATMENT.**—The headnotes to part 5 of schedule 6 are amended—

(1) by striking out “assembled,” in subparagraph (a) of headnote 3 and inserting in lieu thereof “assembled in its cabinet,”;

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:
“4. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in items 687.35 through 687.44, inclusive, unless they are—

“(i) incorporated into complete television receivers, as defined in headnote 3;

“(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

“(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

“(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.”.

(b) **TEMPORARY TREATMENT.**—

(1) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

912.16	Television picture tubes, color, having a video display diagonal of less than 12 inches (provided for in item 687.35, part 5, schedule 6).....	Free	No change	On or before 12/31/90	"
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(2) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

912.19	Television picture tubes, color, having a video display diagonal of 30 inches and over (provided for in item 687.35, part 5, schedule 6).....	Free	No change	On or before 9/30/88	"
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C. 1720. CASEIN.

(a) HUMAN FOOD AND ANIMAL FEED USE.—Subpart D of part 4 of schedule 1 is amended by adding at the end thereof the following new items with the superior heading having the same degree of indentation as the article description in item 118.45:

	Casein, caseinates, and dried milk:				
118.50	Casein	Free		Free	
118.55	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported	1.3¢ per lb.	Free (A,E,I)	5.5¢ per lb.	
118.60	Other	0.2¢ per lb.	Free (A,E,I)	5.5¢ per lb.	"

(b) INDUSTRIAL USE.—Subpart B of part 13 of schedule 4 is amended by striking out items 493.12, 493.14, and 493.17 and the superior heading thereto.

EC. 1721. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

colon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by inserting before "chiefly" the following: "other than plywood, wood-veneer panels, or cellular panels,".

SEC. 1722. IMPORTATION OF FURSKINS.

Headnote 4 to subpart B of part 5 of schedule 1 is repealed.

SEC. 1723. GRAPEFRUIT.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.29 the following new items with a superior heading having the same degree of indentation as item 165.25:

“		Grapefruit:				
	165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).....	20¢ per gal.	Free (E)	70¢ per gal.	
	165.34	Other	35¢ per gal.	Free (E)	70¢ per gal.	”;

and

(2) by redesignating items 165.32 and 165.36 as items 165.37 and 165.38, respectively.

SEC. 1724. SILICONE RESINS AND MATERIALS.

Part 4 of schedule 4 is amended—

(1) by amending subpart A—

(A) by striking out “provided for in part 1C” in headnote 1 and inserting “, other than silicones, provided for in part 1”, and

(B) by amending headnote 2 to read as follows:

“2. (a) For purposes of this subpart, the term ‘synthetic plastics materials’—

“(i) embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which an antioxidant, color, dispersing agent, emulsifier, extender, filler, pesticide, plasticizer, or stabilizer may have been added; and

“(ii) includes silicones (including fluids, resins, elastomers, and copolymers) whether or not such materials are solid in the finished articles.

“(b) The products referred to in subdivision (a) contain as an essential ingredient an organic substance of high molecular weight; and, except as provided in subdivision (a)(ii), are capable, at some stage during processing into finished articles, of being molded or shaped by flow and are solid in the finished article. The term includes, but is not limited to, such products derived from esters of acrylic or methacrylic acid; vinyl acetate, vinyl chloride resins, polyvinyl alcohol, acetals, butyral, formal resins, polyvinyl ether and ester resins, and polyvinylidene chloride resins; urea and amino resins; polyethylene, polypropylene, and other polyalkene resins;

oxanes, silicones, and other organo-silicon resins; alkyd, acrylo-
rile, allyl, and formaldehyde resins, and cellulosic plastics mate-
rials. These synthetic plastics materials may be in solid, semi-solid,
or liquid condition such as flakes, powders, pellets, granules,
emulsions, and other basic crude forms not further
processed.”

(C) by inserting after item 445.54 the following new item
with the article description having the same degree of
indentation as the article description for item 445.54:

445.55	Silicone resins and materi- als	3% ad val.	Free (A,E,I)	25% ad val.	”
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and

(D) by redesignating item 445.56 as item 445.60; and
(2) by amending headnote 2 to subpart B by adding at the end
thereof the following:
“(c) For purposes of the Tariff Schedules, the term ‘rubber’ does
not include silicones.”.

Subpart B—Temporary Changes in Tariff Treatment

C. 1731. COLOR COUPLERS AND COUPLER INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting “, but excluding 6,7-dihydroxy-2-naphthalene
sulfonic acid sodium salt provided for in item 403.57,” after
“schedule 4” and before the parenthesis in item 907.10; and
(2) by striking out “9/30/85” in each of items 907.10 and
907.12 and inserting in lieu thereof “12/31/90”.

C. 1732. POTASSIUM 4-SULFOBENZOATE.

Subpart B of part 1 of the Appendix is amended by inserting in
numerical sequence the following new item:

906.26	p-Sulfobenzoic acid, potassium salt (provided for in item 404.28, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	”
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C. 1733. 2,2'-OXAMIDOBIS[ETHYL-3-(3,5-DI-TERT-BUTYL-4-HYDROXY-PHENYL)PROPIONATE].

Subpart B of part 1 of the Appendix is amended by inserting in
numerical sequence the following item:

907.09	2,2'-Oxamidobis- [ethyl-3-(3,5-di- tert-butyl-4- hydroxyphenyl) propionate] (provided for in item 405.34, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	”
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C. 1734. 2,4-DICHLORO-5-SULFAMOYLBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in
numerical sequence the following new item:

"	906.48	2,4-Dichloro-5-sulfamoylbenzoic acid (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1735. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)-PHENYL]ACETAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.11	Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide (provided for in item 407.19, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1736. CERTAIN KNITWEAR FABRICATED IN GUAM.

(a) **IN GENERAL.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.45	Sweaters that— (i) do not contain foreign materials in excess of the percentage of total value limitation contained in general headnote 3(a), and					
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(ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin, if entered before the aggregate quantity of such sweaters that is entered during any 12-month period after October 31, 1985, exceeds the duty-free quantity for that period.....	Free				On or before 10/31/92	"
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DUTY-FREE QUANTITY.—The headnotes to subpart B of part 1 of Appendix are amended by adding at the end thereof the following new headnote:

3. For purposes of item 905.45, the term 'duty-free quantity' means—

“(a) for the 12-month period ending October 31, 1986, 161,600 dozen; and

“(b) for any 12-month period thereafter, an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period.”.

1737. 3,5-DINITRO-O-TOLUAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.42	3,5-Dinitro-o-toluamide (provided for in item 411.95, part 1C, schedule 4).....	Free			No change	On or before 12/31/90

SEC. 1738. SECONDARY-BUTYL CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.55	Secondary-butyl chloride (provided for in item 429.47, part 2D, schedule 4).....	Free			No change	On or before 12/31/90

SEC. 1739. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

“	907.83	Nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate (provided for in item 445.48, part 4A, schedule 4).....	Free			No change	On or before 12/31/90

SEC. 1740. DUTY-FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

915.20	Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury	Free	Free	On or before 9/30/87	"
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C. 1741. CARDING AND SPINNING MACHINES.

a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended inserting in numerical sequence the following new item:

912.03	Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in item 670.04, part 4E, schedule 6).....	Free	No change	On or before 12/31/90	"
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b) PARTS.—The headnote to subpart E of part 4 of schedule 6 is amended by striking out “item 912.04” each place it appears and inserting in lieu thereof “item 912.03 or 912.04”.

C. 1742. DICOFOL AND CERTAIN MIXTURES.

a) DICOFOL.—Item 907.15 of the Appendix is amended to read as follows:

"	907.15	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) (provided for in item 408.28, part 1C, schedule 4).....	Free			No change	On or before 12/31/90	"
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(b) MIXTURES OF DICOFOL AND APPLICATION ADJUVANTS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.27	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants (provided for in item 408.36, part 1C, schedule 4).....	Free			No change	On or before 12/31/90	"
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SEC. 1743. SILK YARN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.25	Yarns of silk (provided for in item 308.51, part 1D, schedule 3).....	Free			No change	On or before 12/31/90	"
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SEC. 1744. TERFENADONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.48	1-(4-(1,1-Dimethylethyl)-phenyl)-4-(hydroxydi-phenyl-methyl-1-piperidiny)-1-butanone (provided for in item 406.42, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	"
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SEC. 1745. FLUAZIFOP-P-BUTYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.49	Butyl 2-[4-(5-trifluoromethyl-2-pyridinyloxy)-phenoxy]-propanoate (provided for in item 408.23, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"
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C. 1746. PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

912.18	Parts, not including photoreceptors or assemblies containing photoreceptors, of indirect process electrostatic copying machines, which machines reproduce the original image onto the copy material by electrostatic transference to and from an intermediate (provided for in item 676.56, part 4G, schedule 6).....	Free		No change	On or before 12/31/90	"
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C. 1747. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

912.24	Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.17, part 2B, schedule 7).....	Free		No change	On or before 12/31/87	"
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SEC. 1748. TRANSPARENT PLASTIC SHEETING.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	915.10	Transparent plastic sheeting containing 30% or more of lead, by weight (provided for in item 774.58, part 12D, schedule 7).....	Free	No change	On or before 12/31/90	”.
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SEC. 1749. DOLL WIG YARNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	905.30	Grouped filaments and yarns, not textured, in continuous form, colored, of nylon or modacrylic, whether or not curled of not less than 20 denier per filament, to be used in the manufacture of wigs for dolls (provided for in item 309.32 and 309.33, part 1E, schedule 3, or item 389.62, part 7B, schedule 3).....	Free	No change	On or before 12/31/90	”.
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SEC. 1750. 1-(3-SULFOPROPYL) PYRIDINIUM HYDROXIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

“	907.97	1-(3-Sulfopropyl)-pyridinium hydroxide (provided for in item 406.42, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	”.
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SEC. 1751. POLYVINYL BENZYLTRIMETHYLAMMONIUM (CHOLESTYRAMINE RESIN USP).**CHLORIDE**

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

07.30	Cross-linked polyvinylbenzyltrimethylammonium chloride (cholestyramine resin USP) (provided for in item 412.71, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	"
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1752. METHYLENE BLUE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

07.81	3,7-Bis-(dimethylamino)-phenazthionium chloride (methylene blue) (provided for in item 409.74, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	"
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1753. 3-AMINO-3-METHYL-1-BUTYNE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

07.53	3-Amino-3-methyl-1-butyne (provided for in item 425.52, part 2D, schedule 4).....	Free	No change	On or before 12/31/90	"
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1754. DICYCLOHEXYLBENZOTHAZYL-SULFENAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

06.45	Dicyclohexylbenzothiazyl-sulfenamide (provided for in item 406.39, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	"
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1755. D-6-METHOXY- α -METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.39	d-6-Methoxy- α -methyl-2-naphthaleneacetic acid and its sodium salt (provided for in item 412.22, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1756. SUSPENSION OF DUTIES ON JACQUARD CARDS AND JACQUARD HEADS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.46	Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof (provided for in items 670.56 and 670.74, respectively, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	"
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SEC. 1757. 2,2-BIS(4-CYANATOPHENYL).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.44	2,2-Bis(4-cyanatophenyl) (provided for in item 405.76, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1758. PHENYLMETHYLAMINOPYRAZOLE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.47	Aminomethyl-phenylpyrazole (Phenylmethylaminopyrazole) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1759. BENZETHONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.52	Benzethonium chloride (provided for in item 408.32, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	"
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. 1760. MANEB, ZINEB, MANCOZEB, AND METIRAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.60	Maneb, zineb, mancozeb, and metiram (provided for in item 432.15, part 2E, schedule 4).....	Free	No change	On or before 12/31/90	"
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. 1761. METALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.56	Metaldehyde (provided for in item 427.58, part 2D, schedule 4).....	Free	No change	On or before 12/31/90	"
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. 1762. PARALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.57	Paraldehyde, USP grade (provided for in item 439.50, part 3C, schedule 4).....	Free	No change	On or before 12/31/90	"
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. 1763. CYCLOSPORINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

907.78	Cyclosporine (provided for in item 439.30, part 3C, schedule 4).....	Free	No change	On or before 12/31/90	"
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. 1764. TEMPORARY REDUCTION OF DUTIES ON GLASS INNERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

505.33	Glass liners designed for vacuum flasks or for other vacuum vessels (provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5)....	9% ad val.	3.6% ad val. (I) Free (A,E)	55% ad val.	On or before 12/31/90	"
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SEC. 1765. BENZENOID DYE INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"	907.84	p-Toluenesulfonyl chloride (provided for in item 403.05, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
	907.85	6-Hydroxy-2- naphthalenesul- fonic acid; 6-Hydroxy-2- naphthalenesul- fonic acid, sodium salt; 6-Hydroxy-2- naphthalenesul- fonic acid, potassium salt; and 6-Hydroxy-2- naphthalenesul- fonic acid, ammonium salt (provided for in item 403.57, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
	907.86	2,6-Dichloro- benzaldehyde (provided for in item 403.81 part 1B, schedule 4)....	Free		No change	On or before 12/31/90

7.87	8-Amino-1-naphthalenesulfonic acid and its salts (provided for in item 404.52, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
7.88	5-Amino-2-(p-amino-anilino) benzene-sulfonic acid (provided for in item 404.84, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
7.89	1-Amino-2,4-dibromo-anthraquinone; and α,α,α -Tri-fluoro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
7.90	1-Amino-8-hydroxy-3,6-naphthalene-disulfonic acid; 4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid, monosodium salt (H acid, monosodium salt); and 2-Amino-5-nitrophenol (provided for in item 404.92, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
7.91	1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid);			

	1-Amino-4-bromo- 2-anthraquin- one-sulfonic acid (Bromamine acid), sodium salt; 6-Amino-4- hydroxy- 2-naphthalene- sulfonic acid (Gamma acid); 3,3'-Dimethoxy- benzidine (o-Dianisidine); 3,3'-Dimethoxy- benzidine dihydrochloride (o-Dianisidine dihydrochlor- ide); and 4-Methoxyaniline- 2-sulfonic acid (provided for in item 405.07, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
907.92	N-(7-Hydroxy-1- naphthyl)- acetamide (provided for in item 405.28, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
907.93	N,N-Bis(2- cyanoethyl)- aniline (provided for in item 405.60, part 1B, schedule 4).....	Free	No change	On or before 12/31/90
907.94	6-(3-Methyl-5- oxo-1- pyrazolyl)-1,3- naphthalene- disulfonic acid (Amino-J- pyrazolone) (CAS No. 7277-87-4); and 3-Methyl-1- phenyl- 5-pyrazolone			

	(Methylphenylpyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.95	2-Amino-N-ethylbenzenesulfon-anilide (provided for in item 406.49, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.96	m-Sulfamino-pyrazolone m-Sulfamido-phenylmethyl-pyrazolone) (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

1766. TUNGSTEN ORE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

911.96	Tungsten ore (provided for in item 601.54, part 1, schedule 6)	Free		No change	On or before 12/31/90	"
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1767. CHLOR AMINO BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.07	4-Chloro-2,5-dimethoxy aniline (CAS No. 6358-64-1) (provided for in item 405.01, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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SEC. 1768. NITRO SULFON B.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.01	2-[(3-Nitrophenyl)-sulfonyl]-ethanol (CAS No. 41687-30-3) (provided for in item 406.00, part 1B, schedule 4).....	Free		No change	On or before 12/31/
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SEC. 1769. 4-CHLORO-2-NITRO ANILINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

“	908.02	4-Chloro-2-nitro aniline (CAS No. 89-63-4) (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/
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SEC. 1770. AMINO SULFON BR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.03	3-(4'-aminobenz-amido) phenyl-beta-hydroxy-ethyl sulfone (CAS No. 20241-68-3) (provided for in item 406.00, part 1B, schedule 4).....	Free		No change	On or before 12/31/
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SEC. 1771. ACET QUINONE BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.04	2,5-Dimethoxy-acetanilide (CAS No. 3467-59-2) (provided for in item 405.34, part 1B, schedule 4).....	Free		No change	On or before 12/31/
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SEC. 1772. DIAMINO PHENETOLE SULFATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

908.05	3,4-Diamino phenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in item 405.09, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	"
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EC. 1773. CERTAIN MIXTURES OF CROSS-LINKED SODIUM POLYACRYLATE POLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

907.72	Mixtures of two or more organic compounds containing one or more cross- linked sodium polyacrylate polymers (provided for in item 430.20, part 2D, schedule 4).....	Free	No change	On or before 10/31/87	"
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EC. 1774. N-ETHYL-O-TOLUENESULFONAMIDE AND N-ETHYL-P-TOLUENESULFONAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

908.07	N-Ethyl-o-toluene- sulfonamide, and N-Ethyl-p-toluene- sulfonamide (provided for in item 409.34, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	"
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EC. 1775. SETHOXYDIM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.36	Mixtures of 2-[1-(ethoxyimino)-butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one (sethoxydim) and application adjuvants (provided for in item 407.19, part 1B, or item 430.20, part 2D of schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1776. 3-ETHYLAMINO-P-CRESOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.34	3-Ethylamino-p-cresol (provided for in item 404.96, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1777. ROSACHLORIDE LUMPS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.11	1-Amino-2-chloro-4-hydroxyanthraquinone (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1778. C-AMINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.59	2-Amino-5-chloro-4-methylbenzene-sulfonic acid; and 2-amino-5-chloro-4-ethylbenzene-sulfonic acid (provided for in item 404.88 and 404.90, respectively, part 1B, sched-				
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ule 4).....	Free	No change	On or before 12/31/90	"
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EC. 1779. DIAMINO IMID SP.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

906.60	4,11-Diamino-1H-naphth[2,3-f]iso-indole-1,3,5,10(2H)-tetrone (CAS No. 128-81-4) (provided for in item 406.42, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	"
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EC. 1780. CERTAIN STUFFED TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

912.32	Stuffed or filled toy figures of animate objects (except dolls), not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in items 737.30 and 737.40, part 5E, schedule 7)....	Free	No change	On or before 12/31/90	"
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EC. 1781. KITCHENWARE OF TRANSPARENT, NONGLAZED GLASS CERAMICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	909.15	Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, containing lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10×10^{-7} per Kelvin within a temperature range of 0° C to 300° C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm. in thickness, and containing beta-quartz solid solution as the predominant crystal phase (provided for in item 534.97, part 2C, schedule 5).....	Free	No change	On or before 12/31/90	”.
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SEC. 1782. HOSIERY KNITTING MACHINES AND NEEDLES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

“	912.28	Needles for knitting machines (provided for in items 670.58 and 670.62, part 4E, schedule 6)....	Free	No change	On or before 12/31/90	”.
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"	912.29	Hosiery knitting machines, single cylinder fine gauge and all double cylinder (provided for in items 670.16 and 670.18, part 4E, schedule 6)....	Free		No change	On or before 12/31/90	"
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(b) **REPEAL.**—Items 912.08 and 912.09 are repealed.

SEC. 1783. CERTAIN BICYCLE PARTS.

(a) **BICYCLE TIRES AND TUBES.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.01	Bicycle tires and tubes and rim strips, the foregoing of rubber or plastics (provided for in item 732.42, part 5C, schedule 7, and items 772.48 and 772.57, part 12C, schedule 7)...	Free		No change	On or before 12/31/90	"
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(b) **GENERATOR LIGHTING SETS.**—Item 912.05 of the Appendix is amended by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(c) **BICYCLE CHAINS.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.06	Bicycle chains (provided for in items 652.13 and 652.15, part 3F, schedule 6)....	Free		No change	On or before 12/31/90	"
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(d) **OTHER BICYCLE PARTS.**—Item 912.10 of the Appendix is amended—

(1) by inserting "front and rear derailleurs, shift levers, cables and casings for derailleurs," immediately after "drum brakes,"

(2) by striking out "multiple free wheel sprockets" and inserting in lieu thereof "free wheel sprockets",

(3) by inserting "and" after "frame lugs",

(4) by striking out " , including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle", and

(5) by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(e) CALIPER BRAKE CABLE OR INNER WIRE AND CASING.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.12	Cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in items 642.08, 642.11, 642.14, 642.16, 642.18, 642.19, 642.23, and 657.25, parts 3B and 3G, schedule 6, and items 771.55 and 772.65, parts 12B and 12C, schedule 7).....	Free	No change	On or before 12/31/90	"
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(f) EXCEPTION TO CUSTOMS EXEMPTION APPLICABLE TO FOREIGN TRADE ZONES.—Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "June 30, 1986" and inserting in lieu thereof "January 1, 1991".

SEC. 1784. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.24	1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate) (provided for in item 408.19, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	"
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SEC. 1785. TRIALLATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.64	S-(2,3,3'-trichlorallyl)-diisopropylthiocarbamate (provided for in item 425.36, part 2D, schedule 4).....	Free	No change	On or before 12/31/90	”.
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SEC. 1786. m-NITRO-p-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.56	m-Nitro-p-anisidine (provided for in item 405.09, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	”.
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SEC. 1787. DINOCAp AND MIXTURES OF DINOCAp AND MANCOZEB.

(a) **DINOCAp AND APPLICATION ADJUVANTS.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

“	907.98	Dinocap (provided for in item 408.16, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	
	907.99	Mixtures of dinocap and application adjuvants (provided for in item 408.38, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	”.

(b) **MIXTURES OF DINOCAp AND MANCOZEB.**—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.28	Mixtures of mancozeb and dinocap (provided for in item 408.38, part 1C, schedule 4).....	Free	No change	On or before 12/31/90	”.
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SEC. 1788. m-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.35	m-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1789. p-NITRO-O-TOLUIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence to the following new item:

"	906.37	p-Nitro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1790. PHENYLCARBETHOXYPYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.31	Phenylcarbethoxy-pyrazolone (provided for in item 406.39, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1791. p-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.14	p-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
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SEC. 1792. CARBODIIMIDES.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.70	Bis(o-tolyl) carbodiimide; 2,2',6,6'-Tetraisopropyl-diphenyl carbodiimide; Poly[nitrilomethanetetraryl-nitrilo [2,4,6-tris(1-methylethyl)-1,3 phenylene]], 2,6-bis(1-methylethyl) phenyl-omega-[[[2,6-bis(1-methylethyl) phenyl]amino] methylene]-amino; and Benzene, 2,4-diisocyanato-1,3,5-tris(1-methylethyl)-homopolymer (provided for in item 405.53, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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C. 1793. TRIETHYLENE GLYCOL DICHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.73	Triethylene glycol dichloride (provided for in item 428.47, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	"
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C. 1794. MIXTURES OF 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE, STABILIZERS AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.16	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants (provided for in item 432.28, part 2E, schedule 4).....	Free		No change	On or before 12/31/90 ”.
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SEC. 1795. 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE, AND ON MIXTURES OF 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	908.17	2-n-Octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (provided in items 425.52 and 430.20, part 2D, schedule 4)....	Free		No change	On or before 12/31/90 ”.
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SEC. 1796. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	912.48	Power-driven weaving machines for weaving fabrics more than sixteen feet in width, and parts thereof (provided for in item 670.14 and 670.74, part 4E, schedule 6).....	Free		No change	On or before 12/31/90 ”.
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SEC. 1797. BARBITURIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.50	Barbituric acid (provided for in item 437.36, part 3B, schedule 4).....	Free		No change	On or before 12/31/90	"
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EC. 1798. 3-METHYL-5-PYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

907.46	3-Methyl-5- pyrazolone (provided for in item 425.52, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	"
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EC. 1799. 3-METHYL-1-(P-TOLYL)-2-PYRAZOLIN-5-ONE (P-TOLYL METHYL PYRAZOLONE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

908.15	3-Methyl-1-(p- tolyl)-2- pyrazolin-5-one (p-Tolyl methyl pyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"
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EC. 1800. CERTAIN OFFSET PRINTING PRESSES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

911.93	Offset printing presses of the sheet-fed type weighing 3,500 pounds or more (provided for in item 668.21, part 4D, schedule 6).....	No change		10% ad val.	On or before 12/31/90	"
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EC. 1801. FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following item:

"	903.63	Cranberries, frozen (provided for in item 146.71, part 9B, schedule 1).....	Free	No change	On or before 12/31/90	"
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SEC. 1802. m-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.18	m-Hydroxybenzoic acid (provided for in item 404.40, part 1B, schedule 4).....	Free	No change	On or before 12/31/90	"
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SEC. 1803. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended—
(1) by inserting in numerical sequence the following new item:

"	908.32	N1,N4,N4-Tris(2- hydroxyethyl)-2- nitro-1,4- phenylenedia- mine; N1,N4-Dimethyl- N1-(2- hydroxyethyl)-3- nitro-1,4- phenylenedia- mine; N1,N4-Dimethyl- N1-(2,3- dihydroxypro- pyl)-3-nitro-1,4- phenylenedia- mine; and N1-(2- Hydroxyethyl)- 3-nitro-1,4- phenylenedia- mine (provided for in item 405.09, part 1B, schedule 4).....	Free	No change	On or before 12/1/90	"
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(2) by inserting in numerical sequence the following new item:

"	908.33	N1-(2- Hydroxyethyl)- 2-nitro-1,4- phenylenedia- mine (provided for in item 405.07, part 1B, schedule 4).....	Free	No change	On or before 12/1/90	"
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and

(3) by inserting in numerical sequence the following new item:

908.34	2-Nitro-5-[(2,3-dihydroxy)-propoxy]-N-methylaniline; 2-Nitro-5-(2-hydroxyethoxy)-N-methylaniline; 4-[(2-Hydroxyethyl)-amino]-3-nitrophenol; 4-(2-Hydroxyethoxy)-1,3-phenylenediamine dihydrochloride; and 3-Methoxy-4-[(2-hydroxyethyl)-amino]nitrobenzene (provided for in item 405.09, part 1B, schedule 4).....	Free	No change	On or before 12/1/90	"
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C. 1804. EXTENSION OF CERTAIN SUSPENSION PROVISIONS.

(a) PROVISIONS THAT EXPIRED BEFORE 1987.—Each of the following items are amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

- (1) Item 903.65 (relating to cantaloupes).
- (2) Items 905.10 and 905.11 (relating to certain wools).
- (3) Items 906.10 and 906.12 (relating to needlecraft display models).
- (4) Item 907.01 (relating to triphenyl phosphate).
- (5) Item 907.14 (relating to isomeric mixtures of ethylbiphenyl).
- (6) Item 907.17 (relating to sulfapyridine).
- (7) Item 911.25 (relating to synthetic rutile).
- (8) Item 911.95 (relating to certain clock radios).
- (9) Item 912.07 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).
- (10) Item 912.20 (relating to certain small toys).
- (11) Items 912.30, 912.34, and 912.36 (relating to stuffed dolls, certain toy figures, and skins thereof).
- (12) Item 912.45 (relating to umbrella frames).
- (13) Item 903.60 (relating to mixtures of mashed or macerated hot red peppers and salt).

(b) PROVISIONS EXPIRING IN 1987 OR LATER.—Each of the following items is amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

- (1) Items 903.70 and 903.80 (relating to crude feathers and down).
- (2) Item 905.50 (relating to surgical gowns).

- (3) Item 906.50 (relating to diphenylguanidine and di-orthotolylguanidine).
 - (4) Item 906.57 (relating to m-toluic acid).
 - (5) Item 907.13 (relating to menthol feedstocks).
 - (6) Item 907.19 (relating to sulfathiazole).
 - (7) Item 907.21 (relating to flecainide acetate).
 - (8) Item 907.23 (relating to o-Benzyl-p-chlorophenol).
 - (9) Item 907.31 (relating to B-Naphthol).
 - (10) Item 907.32 (relating to 3,3'-Diaminobenzidine).
 - (11) Item 907.33 (relating to acetylsulfaguanidine).
 - (12) Item 907.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).
 - (13) Item 907.35 (relating to 2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid).
 - (14) Item 907.36 (relating to sulfamethazine).
 - (15) Item 907.37 (relating to sulfaguanidine).
 - (16) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).
 - (17) Item 907.63 (relating to nicotine resins).
 - (18) Item 907.79 (relating to iron-dextran complex).
 - (19) Item 909.01 (relating to natural graphite).
 - (20) Item 912.04 (relating to certain narrow weaving machines).
 - (21) Item 912.11 (relating to certain lace-braiding machines).
 - (22) Item 905.40 (relating to certain hovercraft skirts).
 - (23) Item 906.52 (relating to 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate).
- (c) TECHNICAL AMENDMENTS.—
- (1) Item 906.10 is amended—
 - (A) by striking out “365.78” and inserting in lieu thereof “365.66”,
 - (B) by striking out “365.86” and inserting in lieu thereof “365.89”,
 - (C) by striking out “367.34” and inserting in lieu thereof “367.32”,
 - (D) by striking out “367.60” and inserting in lieu thereof “367.63”,
 - (E) by striking out “386.13” and inserting in lieu thereof “386.12”, and
 - (F) by striking out “386.50” and inserting in lieu thereof “386.53”.
 - (2) Item 906.12 is amended by striking out “383.03, 383.08, 383.20, and 383.50” and inserting in lieu thereof “384.04, 384.09, 384.22, and 384.52”.
 - (3) Item 907.14 is amended by striking out “407.16” and inserting in lieu thereof “407.19”.
 - (4) Item 912.45 is amended by striking out “751.20” and inserting in lieu thereof “751.21”.
 - (5) Item 907.21 is amended by striking out “412.12” and inserting in lieu thereof “412.11”.

Subpart C—Effective Dates**C. 1831. EFFECTIVE DATES.**

(a) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by this part shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after September 30, 1988.

(b) **RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND LIQUIDATIONS.**—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, any entry—

(A) which was made after the applicable date and before October 1, 1988, and

(B) with respect to which there would have been no duty or a lesser duty if any amendment made by—

(i) section 1716, 1717, 1719(b)(2), 1731, 1736, 1740, 1742(a), 1747, or 1773,

(ii) subsection (a), (b), (d), or (e) of section 1783, or

(iii) section 1804 (other than section 1804(a)(7) and paragraphs (2) and (10) of section 1804(b)),

applied to such entry, shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term “applicable date” means—

(i) if the amendment described in paragraph (1)(B) is made by section 1717 or 1747, December 31, 1982,

(ii) if such amendment is made by section 1804(a)(1), May 15, 1985,

(iii) if such amendment is made by paragraph (2), (3), (5), or (13) of section 1804(a), June 30, 1985,

(iv) if such amendment is made by section 1773, July 1, 1985,

(v) if such amendment is made by section 1731, 1742(a), or 1804(a)(4), September 30, 1985,

(vi) if such amendment is made by section 1736, October 31, 1985,

(vii) if such amendment is made by section 1716 or by paragraph (6), (9), or (11) of section 1804(a), December 31, 1985,

(viii) if such amendment is made by section 1740, May 31, 1986,

(ix) if such amendment is made by subsection (b), (d), or (e) of section 1783, June 30, 1986,

(x) if such amendment is made by paragraph (8), (10), or (12) of section 1804(a), December 31, 1986,

(xi) if such amendment is made by section 1783(a) or 1804(b) (other than by paragraph (2) or (10) of section 1804(b)), December 31, 1987, or

(xii) if such amendment is made by section 1719(b)(2), the date that is 15 days after the date of enactment of this Act.

(B) The term “entry” includes any withdrawal from warehouse.

(c) **HOSIERY KNITTING MACHINES AND NEEDLES.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989—

(1) any entry of an article described in item 912.08 of the Tariff Schedules of the United States (as in effect on September 30, 1985) that was made—

(A) after September 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on September 30, 1985; and

(2) any entry of an article described in item 912.09 of such Schedules (as in effect on June 30, 1985) that was made—

(A) after June 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on June 30, 1985.

PART II—MISCELLANEOUS PROVISIONS

SEC. 1841. CERTAIN STRUCTURES AND PARTS USED IN THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII.

The Secretary of the Treasury is authorized and directed to admit free of duty after September 30, 1988, the following articles for the use of the California Association for Research in Astronomy in the construction of the optical telescope for the W.M. Keck Observatory Project, Mauna Kea, Hawaii:

- Canada.
- Federal
Republic of
Germany.
- (1) The telescope structure.
- (2) The observatory domes, produced by Brittain Steel, Ltd., of Vancouver, British Columbia, Canada.
- (3) The primary mirror blanks, produced by the Schott Glassworks, Frankfurt, Federal Republic of Germany.

If the liquidation of the entry of any such article has become final before October 1, 1988, the entry shall, notwithstanding any other provision of law, be reliquidated on October 1, 1988, in accordance with the provisions of this section and the appropriate refund of duty made at the time of such reliquidation.

SEC. 1842. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTI-DUMPING DUTIES.

(a) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated on October 1, 1988, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made on October 1, 1988.

(b) **SPECIFIC ENTRIES.**—The entries referred to in subsection (a) are as follows:

Entry Number:	Date of Entry:
144549.....	March 26, 1976
150297.....	April 27, 1976
152729.....	May 11, 1976
156068.....	May 26, 1976
161653.....	June 23, 1976

Entry Number:	Date of Entry:
759.....	July 30, 1976
393.....	August 25, 1976
173.....	September 3, 1976
811.....	September 23, 1976
842.....	November 18, 1976
000.....	December 9, 1976
229.....	December 21, 1976
070.....	January 17, 1977
908.....	January 20, 1977
403.....	January 24, 1977
005.....	March 10, 1977.

C. 1843. RELIQUIDATION OF CERTAIN TUBULAR TIN PRODUCTS.

Notwithstanding any provision of the Tariff Act of 1930 or any other provision of the law to the contrary, the Secretary of the Treasury shall reliquidate on or after October 1, 1988, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States, as in effect at the time of entry, the entries numbered 00329493 (dated March 16, 1979), 00329494 (dated March 13, 1979), 00329495 (dated March 28, 1979), and 00330003 (dated March 21, 1979), made at New York, and covering tubular tin products, if a certificate of actual use (remelt certificate) for the articles covered by the four entries is submitted to the United States Customs Service at the port of entry after September 30, 1988, and before April 1, 1989.

C. 1844. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Notwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made after September 30, 1988.

C. 1845. EXTENSION OF THE FILING PERIOD FOR RELIQUIDATION OF CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned after September 30, 1988, and before April 1, 1989, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before November 6, 1986, shall be liquidated or reliquidated as though such entry had been made on November 6, 1986.

Subtitle H—Miscellaneous Customs, Trade, and Other Provisions

PART 1—CUSTOMS PROVISIONS

SEC. 1901. ENFORCEMENT OF THE RESTRICTIONS AGAINST IMPORTED PORNOGRAPHY.

(a) **IN GENERAL.**—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended as follows:

(1) The second paragraph of subsection (a) is designated as subsection (b) and the following side heading, appropriately indented, is inserted before “Upon” at the beginning of the paragraph: “(b) **ENFORCEMENT PROCEDURES.**—”.

(2) The second sentence of subsection (b) (as redesignated by paragraph (1)) is amended to read as follows: “Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

“(1) the office at which such seizure took place; or

“(2) the place to which such book or matter is addressed; and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.”.

(3) The following new subsections are added at the end thereof:

“(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

“(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 1902. TARE ON CRUDE OIL AND PETROLEUM PRODUCTS.

(a) **IN GENERAL.**—Section 507 of the Tariff Act of 1930 (19 U.S.C. 1507) is amended—

(1) by striking out “The Secretary” and inserting in lieu thereof “(a) **IN GENERAL.**—The Secretary”,

(2) by striking out “in no case shall there be” and inserting in lieu thereof “(except as otherwise provided in this section) there shall not be”, and

(3) by adding at the end thereof the following new subsection:

“(b) **CRUDE OIL AND PETROLEUM PRODUCTS.**—In ascertaining tare on imports of crude oil, and on imports of petroleum products,

Courts, U.S.

19 USC 1305
note.

owance shall be made for all detectable moisture and impurities
esent in, or upon, the imported crude oil or petroleum products.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall
ply with respect to articles entered, or withdrawn from warehouse
r consumption, after October 1, 1987.

19 USC 1507
note.

**C. 1903. ELIGIBLE ARTICLES UNDER THE GENERALIZED SYSTEM OF
PREFERENCES.**

Section 503(c)(1)(B) of the Trade Act of 1974 (19 U.S.C.
63(c)(1)(B)) is amended to read as follows:

“(B) watches, except those watches entered after June 30,
1989, that the President specifically determines, after public
notice and comment, will not cause material injury to watch or
watch band, strap, or bracelet manufacturing and assembly
operations in the United States or the United States insular
possessions,”.

C. 1904. CUSTOMS BOND CANCELLATION STANDARDS.

Section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) is
ended by adding at the end thereof the following new sentence:
n order to assure uniform, reasonable, and equitable decisions, the
cretary of the Treasury shall publish guidelines establishing
andards for setting the terms and conditions for cancellation of
nds or charges thereunder.”.

**C. 1905. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN,
AIRPORT.**

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 586) is
ended—

19 USC 58b.

- (1) by striking out “and” at the end of subsection (a)(1);
- (2) by redesignating paragraph (2) of subsection (a) as para-
graph (3);
- (3) by inserting after paragraph (1) of subsection (a) the
following new paragraph:
“(2) the airport located at Pontiac/Oakland, Michigan, and”;
- and
- (4) by striking out “20” in subsection (c).

**C. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO IN-
STRUCT THE SECRETARY OF THE TREASURY TO ENFORCE
SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY.**

19 USC 1307
note.

(a) **CONGRESSIONAL FINDINGS.**—The Congress finds that—

- (1) its February 1983 report to the Congress on forced labor in
the Union of Soviet Socialist Republics, the Department of State
confirmed that Soviet forced labor is used “to produce large
amounts of primary and manufactured goods for both domestic
and Western export markets”, and that such labor is used as an
integral part of Soviet national economy;
- (2) the Central Intelligence Agency has compiled a list of over
three dozen products made by Soviet forced labor and imported
by the United States, and that items on the September 27, 1983
list include chemicals, gold, uranium, aluminum, wood products
and glassware;
- (3) the International Commission on Human Rights has con-
cluded that the Soviet Union “continues the deplorable practice
of forced labor in manufacturing and construction projects” and
that prisoners “are forced to work under conditions of extreme

hardship including malnutrition, inadequate shelter and clothing, and severe discipline”;

(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

(5) the prohibition enacted by the Congress declares that “goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited”;

(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that the President should express to the Soviet Union in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

(c) **PRESIDENTIAL ACTION.**—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.

SEC. 1907. IMPORT MARKING PROVISIONS.

(a) **INCREASE IN PENALTY FOR VIOLATIONS OF COUNTRY-OF-ORIGIN MARKING REQUIREMENTS.**—

(1) Section 304(h) of the Tariff Act of 1930 (19 U.S.C. 1304(h)) is amended to read as follows:

“(h) **PENALTIES.**—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

“(1) upon conviction for the first violation of this subsection, be fined not more than \$100,000, or imprisoned for not more than 1 year, or both; and

“(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than \$250,000, or imprisoned for not more than 1 year, or both.”.

(2)(A) The amendment made by paragraph (1) applies with respect to acts committed on or after the date of the enactment of this Act.

(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection.

(b) **MARKING OF CONTAINERS OF IMPORTED MUSHROOMS.**—Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

(c) **NATIVE-AMERICAN STYLE JEWELRY AND NATIVE-AMERICAN STYLE ARTS AND CRAFTS.**—By no later than the date that is 1 year after the date of enactment of this Act, the Secretary of the Treasury shall prescribe and implement regulations under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) which require, to the greatest extent possible, that all Native-American style jewelry and Native-American style arts and crafts that are imported into the United States have the English name of the country of origin of such jewelry or arts and crafts indelibly marked in a conspicuous place on such jewelry or arts and crafts by a permanent method of marking.

Regulations.

SEC. 1908. DUTY-FREE SALES ENTERPRISES.

(a) **FINDINGS.**—The Congress finds that—

19 USC 1555
note.

(1) duty-free sales enterprises play a significant role in attracting international passengers to the United States and thereby their operations favorably affect our balance of payments;

(2) concession fees derived from the operations of authorized duty-free sales enterprises constitute an important source of revenue for the State, local and other governmental authorities that collect such fees;

(3) there is inadequate statutory and regulatory recognition of, and guidelines for the operation of, duty-free sales enterprises; and

(4) there is a need to encourage uniformity and consistency of regulation of duty-free sales enterprises.

(b) **IN GENERAL.**—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended to read as follows:

“(b) **DUTY-FREE SALES ENTERPRISES.**—

“(1) Duty-free sales enterprises may sell and deliver for export from the customs territory duty-free merchandise in accordance with this subsection and such regulations as the Secretary may prescribe to carry out this subsection.

“(2) A duty-free sales enterprise may be located anywhere within—

“(A) the same port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), from which a purchaser of duty-free merchandise departs the customs territory; or

“(B) 25 statute miles from the exit point through which the purchaser of duty-free merchandise will depart the customs territory.

“(3) Each duty-free sales enterprise—

“(A) shall establish procedures to provide reasonable assurance that duty-free merchandise sold by the enterprise will be exported from the customs territory;

“(B) if the duty-free sales enterprise is an airport store, shall establish and enforce, in accordance with such regulations as the Secretary may prescribe, restrictions on the

sale of duty-free merchandise to any one individual to personal use quantities;

“(C) shall display in prominent places within its place of business notices which state clearly that any duty-free merchandise purchased from the enterprise—

“(i) has not been subject to any Federal duty or tax,

“(ii) if brought back into the customs territory, must be declared and is subject to Federal duty and tax, and

“(iii) is subject to the customs laws and regulation of any foreign country to which it is taken;

“(D) shall not be required to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate that the items were sold by a duty-free sales enterprise, unless the Secretary finds a pattern in which such items are being brought back into the customs territory without declaration;

“(E) may unpack merchandise into saleable units after it has been entered for warehouse and placed in a duty-free sales enterprise, without requirement of further permits; and

“(F) shall deliver duty-free merchandise—

“(i) in the case of a duty-free sales enterprise that is an airport store—

“(I) to the purchaser (or a family member or companion traveling with the purchaser) in an area that is within the airport and to which access to passengers is restricted to those departing from the customs territory;

“(II) to the purchaser (or a family member or companion traveling with the purchaser) at the exit point of a specific departing flight;

“(III) by placing the merchandise within the aircraft on which the purchaser will depart for carriage as passenger baggage; or

“(IV) if the duty-free sales enterprise has made a good faith effort to effect delivery for exportation through one of the methods described in subclause (I), (II), or (III) but is unable to do so, by any other reasonable method to effect delivery; or

“(ii) in the case of a duty-free sales enterprise that is a border store—

“(I) at a merchandise storage location at or beyond the exit point; or

“(II) at any location approved by the Secretary before the date of enactment of the Omnibus Trade Act of 1987.

State and local governments.

“(4) If a State or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to or through such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary that the concession or approval required for the enterprise has been obtained.

“(5) This subsection does not prohibit a duty-free sales enterprise from offering for sale and delivering to, or on behalf of, individuals departing from the customs territory merchandise other than duty-free merchandise, except that such other merchandise may not be stored in a bonded warehouse facility other than a bonded facility used for retail sales.

“(6) Merchandise that is purchased in a duty-free sales enterprise is not eligible for exemption from duty under subpart A of part 2 of schedule 8 of the Tariff Schedules of the United States if such merchandise is brought back to the customs territory.

“(7) The Secretary shall by regulation establish a separate class of bonded warehouses for duty-free sales enterprises. Regulations issued to carry out this paragraph shall take into account the unique characteristics of the different types of duty-free sales enterprises. Regulations.

“(8) For purposes of this subsection—

“(A) The term ‘airport store’ means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory from an international airport located within the customs territory.

“(B) The term ‘border store’ means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory through a land or water border by a means of conveyance other than an aircraft.

“(C) The term ‘customs territory’ means the customs territory of the United States and foreign trade zones.

“(D) The term ‘duty-free sales enterprise’ means a person that sells, for use outside the customs territory, duty-free merchandise that is delivered from a bonded warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the customs territory.

“(E) The term ‘duty-free merchandise’ means merchandise sold by a duty-free sales enterprise on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory.

“(F) The term ‘exit point’ means the area in close proximity to an actual exit for departing from the customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that duty-free merchandise delivered in the gate holding area will be exported from the customs territory.

“(G) The term ‘personal use quantities’ means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others.”

(c) **EFFECTIVE DATE.**—The amendment made by this section shall have effect on the date that is 15 days after the date of enactment of this Act. 19 USC 1555 note.

C. 1909. CARIBBEAN BASIN INITIATIVE.

(a) **FINDINGS.**—The Congress finds that—

(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

19 USC 2702 note.

(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

(3) the economic and political stability of the nations of the Caribbean and Central America can be strengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

(b) **INTENT OF THE CONGRESS.**—The Congress hereby expresses its intention to ensure that—

(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act; and

(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.

(c) **WITHDRAWAL OR SUSPENSION OF DUTY-FREE TREATMENT TO SPECIFIC ARTICLES.**—Subsection (e) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended to read as follows:

“(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

“(A) withdraw or suspend the designation of any country as a beneficiary country, or

“(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country, if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

“(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

“(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

“(i) accept written comments from the public regarding such proposed action,

“(ii) hold a public hearing on such proposed action, and

“(iii) publish in the Federal Register—

“(I) notice of the time and place of such hearing prior to the hearing, and

“(II) the time and place at which such written comments will be accepted.”.

President of U.S.
Federal
Register,
publication.

Federal
Register,
publication.

1910. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

IN GENERAL.—Subsection (b) of section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703, note) is amended—

(1) by striking out “and 1988” in paragraphs (1) and (2) and inserting in lieu thereof “, 1988, and 1989”,

(2) by striking out “an insular possession of the United States” in paragraph (1)(A),

(3) by striking out “January 1, 1986, or” in paragraph (1)(A) and inserting in lieu thereof “July 1, 1987”,

(4) by inserting “or an insular possession of the United States” after “beneficiary country” in paragraph (1)(B)(ii)(II),

(5) by striking out the period at the end of paragraph (1)(B) and inserting in lieu thereof “, or”,

(6) by inserting the following new subparagraph after subparagraph (B) of paragraph (1):

“(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987—

“(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and

Virgin Islands.

“(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.”, and

(7) by striking out “or (B)” in paragraph (2) and inserting in lieu thereof “, (B), or (C)”.

STUDIES.—

(1) The United States International Trade Commission and the Comptroller General of the United States shall each immediately undertake a study regarding whether the definition of indigenous ethyl alcohol or mixtures thereof used in applying section 423 of the Tax Reform Act of 1986 is consistent with, and will contribute to the achievement of, the stated policy of Congress to encourage the economic development of the beneficiary countries under the Caribbean Basin Economic Recovery Act and the insular possessions of the United States through the maximum utilization of the natural resources of those countries and possessions. Each study shall specifically include—

(A) an assessment regarding whether the indigenous product percentage requirements set forth in subsection (c)(2)(B) of such section 423 are economically feasible for ethyl alcohol producers; and

(B) if the assessment under subparagraph (A) is negative, recommended modifications to the indigenous product percentage requirements that—

(i) will ensure meaningful production and employment in the region,

(ii) will discourage pass-through operations, and

(iii) will not result in harm to producers of ethyl alcohol, or mixtures thereof, in the United States; and

(C) an assessment of the effects of imports of ethyl alcohol, and mixtures thereof, from such beneficiary countries and possessions on producers of ethyl alcohol, and mixtures thereof, in the United States.

Reports.

(2) The United States International Trade Commission and the Comptroller General of the United States shall each submit a report containing the findings and conclusions of the study carried out under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before the 180th day after the date of the enactment of this Act.

SEC. 1911. ENFORCEMENT OF RESTRICTIONS ON IMPORTS FROM CUBA.

Reports.

The United States Trade Representative shall request that all relevant agencies prepare appropriate recommendations for improving the enforcement of restrictions on the importation of articles from Cuba. Such recommendations should include, but not be limited to, appropriate measures to prevent indirect shipments or other means of circumvention. The United States Trade Representative shall, after considering such recommendations, report to the Congress, within 90 days after the date of enactment of this Act, on any administrative measures or proposed legislation which the United States Trade Representative considers necessary and appropriate to enforce restrictions on imports from Cuba.

SEC. 1912. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by striking out “beginning on the date of the enactment of this section, and ending on September 30, 1987,” in subsection (c) and inserting in lieu thereof “described in subsection (a) for which the fund is available to the United States Customs Service,” and

(2) by striking out “private citizens” in subsection (a)(iii) and inserting in lieu thereof “private persons”.

PART 2—MISCELLANEOUS TRADE PROVISIONS

SEC. 1931. TRADE STATISTICS.

(a) **REPORTING OF IMPORT STATISTICS.**—Subsection (e) of section 301 of title 13, United States Code, is amended by striking out the last sentence thereof.

13 USC 301 note.

(b) **VOLUMETRIC INDEX.**—

(1) The Director of the Census, in consultation with the Director of the Bureau of Economic Analysis and the Commissioner of Labor Statistics, shall conduct a study to determine the feasibility of developing, and of publishing, an index that measures the real volume of merchandise trade on a monthly basis, which would be reported simultaneously with the balance of merchandise trade for the United States.

Reports.

(2) The Director of the Census shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under paragraph (1) by no later than the date that is one year after the date of enactment of this Act.

SEC. 1932. ADJUSTMENT OF TRADE STATISTICS FOR INFLATION AND DEFLATION.

Subsection (e) of section 301 of title 13, United States Code, is amended by adding at the end thereof the following new sentence: “The information required to be reported under this subsection shall

reported in a form that is adjusted for economic inflation orlation (on a constant dollar basis consistent with the reporting of National Income and Product Accounts), and in a form that is so adjusted.”.

C. 1933. COAL EXPORTS TO JAPAN.

It is the sense of the Congress that—

(1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;

(2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;

(3) the President should direct the United States Trade Representative, in negotiating a Steel Trade Arrangement with Japan, to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States; and

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

D. 1934. PURCHASES OF UNITED STATES-MADE AUTOMOTIVE PARTS BY JAPAN.

a) FINDINGS.—The Congress finds that—

(1) the United States merchandise trade deficit reached the unprecedented level of \$170,000,000,000 in 1986;

(2) the United States trade deficit with Japan, which reached \$59,000,000,000 in 1986, accounted for approximately one-third of the total deficit;

(3) approximately one-half of the United States trade deficit with Japan was in motor vehicles and equipment;

(4) while Japanese automobile firms based in Japan produced 7,800,000 passenger cars in 1986 and exported 2,300,000 cars to the United States, United States exports of auto parts to Japan were only about \$300,000,000 in 1986;

(5) United States automotive parts producers meet increasingly rigorous requirements for quality, just-in-time supply, and competitive pricing in the United States market; and

(6) the market-oriented sector specific (MOSS) talks on auto parts are aimed at overcoming substantial market access barriers and increasing the access of United States auto parts producers to the original and replacement parts market represented by Japanese automobiles produced in Japan, the United States, and third countries.

b) SENSE OF CONGRESS.—The Congress—

(1) strongly supports efforts being made by United States negotiators to expand significantly the opportunities for United States automotive parts producers to supply original and replacement parts for Japanese automobiles, wherever those automobiles may be produced; and

(2) determines that success of the MOSS talks will be measured by a significant increase in sales by United States auto parts companies to Japanese vehicle companies and the

initiation of long-term sourcing relationships between such companies.

(c) **REPORT ON OUTCOME.**—The United States Trade Representative and the Secretary of Commerce shall report to Congress at the conclusion of the MOSS talks on the outcome of the talks and on any agreements reached with Japan with respect to purchases by Japanese firms of United States automotive parts.

SEC. 1935. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

Reports.

The Secretary of Energy shall send to the Secretary of Commerce the results of the study conducted under section 3102 of the Omnibus Budget Reconciliation Act of 1986. Within 180 days of the receipt of the results of such study, the Secretary of Commerce shall report to the President and the Congress recommendations for actions which may be appropriate to address any impact of imports of crude oil and petroleum products on domestic crude oil exploration and production and the domestic petroleum refining capacity.

SEC. 1936. STUDY OF TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE UNITED STATES MARKET.

(a) **STUDY.**—The United States Trade Representative shall conduct a study of formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting automobile imports into the United States. The study shall consider the impact of such barriers on automobile imports into the United States in the presence of, and in the absence of, voluntary restraint agreements between the United States and Japan.

(b) **REPORT.**—The United States Trade Representative shall include the findings of the study conducted under subsection (a) in the first report that is submitted under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241) after the date of enactment of this Act.

SEC. 1937. LAMB MEAT IMPORTS.

Within 15 days after the date of the enactment of this Act, the United States International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), shall monitor and investigate for a period of 2 years the importation into the United States of articles provided for in item 106.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to fresh, chilled, and frozen lamb meat). For purposes of any request made under subsection (d) of section 202 of the Trade Act of 1974 (as amended by section 1401 of this Act) within such 2-year period for provisional relief with respect to imports of such articles, the monitoring and investigation required under this section shall be treated as having been requested by the United States Trade Representative under paragraph (1)(B) of such subsection.

PART 3—OTHER PROVISIONS

SEC. 1941. WINDFALL PROFIT TAX REPEAL.

(a) **IN GENERAL.**—Chapter 45 of the Internal Revenue Code of 1986 is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Sections 6050C, 6076, 6232, 6429, 6430, and 7241 of the Internal Revenue Code of 1986 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (4) and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.

(B) The following provisions of such Code are each amended by striking “44, or 45” each place it appears and inserting “or 44”:

- (i) section 6211(a),
- (ii) section 6211(b)(2),
- (iii) section 6212(a),
- (iv) section 6213(a),
- (v) section 6213(g),
- (vi) section 6214(c),
- (vii) section 6214(d),
- (viii) section 6161(b)(1),
- (ix) section 6344(a)(1), and
- (x) section 7422(e).

(C) Subsection (a) of section 6211 of such Code is amended by striking “44, and 45” and inserting “and 44”.

(D) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking “chapter 44, or chapter 45” and inserting “or chapter 44”, and

(ii) by striking “chapter 44, chapter 45, and this chapter” and inserting “chapter 44, and this chapter”.

(F) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking “of chapter 42 tax” and inserting “or of chapter 42 tax”, and

(ii) by striking “, or of chapter 45 tax for the same taxable period”.

(G) Subsection (e) of section 6302 of such Code is amended—

(i) by striking “(1) For” and inserting “For”, and

(ii) by striking paragraph (2).

(H) Section 6501 of such Code is amended by striking the subsection relating to special rules for windfall profit tax.

(I) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of such Code is amended—

(i) by striking “of tax imposed by chapter 41” and inserting “or of tax imposed by chapter 41”, and

(ii) by striking “, or of tax imposed by chapter 45 for the same taxable period”.

(K) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking “of tax imposed by chapter 41” and inserting “or of tax imposed by chapter 41”, and

(ii) by striking “, or of tax imposed by chapter 45 for the same taxable period”.

(L) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of such Code is amended—

(i) by striking clause (i) in paragraph (1)(B) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

26 USC 6862.

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

(N) Subsection (a) of section 6862 of such Code is amended by striking “44, and 45” and inserting “and 44”.

(O) Section 7512 of such Code is amended—

(i) by striking “, by chapter 33, or by section 4986” in subsections (a) and (b) and inserting “or chapter 33”, and

(ii) by striking “, chapter 33, or section 4986” in subsections (b) and (c) and inserting “or chapter 33”.

(3)(A) The table of contents of subtitle D of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 of such Code is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 of such Code is amended by striking the items relating to sections 6429 and 6430.

(F) The table of contents of part II of subchapter A of chapter 75 of such Code is amended by striking the item relating to section 7241.

(4)(A) Section 280D of such Code is repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 280D.

(5) Paragraph (4) of section 291(b) of such Code is amended to read as follows:

“(4) **INTEGRATED OIL COMPANY DEFINED.**—For purposes of this subsection, the term ‘integrated oil company’ means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d).”

(6)(A) Paragraph (3) of section 6654(f) of such Code is amended to read as follows:

“(3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages).”

(B) Subparagraph (B) of section 6655(g)(1) of such Code is amended to read as follows:

“(B) the credits against tax provided by part IV of subchapter A of chapter 1.”

(7) Subparagraph (A) of section 193(b)(3) of such Code is amended by striking “section 4996(b)(8)(C)” and inserting “section 4996(b)(8)(C) as in effect before its repeal”.

26 USC 164 note.

(C) **EFFECTIVE DATE.**—The amendments made by this section shall apply to crude oil removed from the premises on or after the date of the enactment of this Act.

TITLE II—EXPORT ENHANCEMENT

Export
Enhancement
Act of 1988.
15 USC 4701
note.

2001. SHORT TITLE.

This title may be referred to as the “Export Enhancement Act of 1988”.

Subtitle A—Trade and Foreign Policy

PART I—RELATIONS WITH CERTAIN COUNTRIES

2101. UNITED STATES-MEXICO FRAMEWORK AGREEMENT ON TRADE AND INVESTMENT.

(a) FINDINGS.—The Congress finds that the Bilateral Framework Agreement on Trade and Investment, entered into by the United States and Mexico on November 6, 1987—

(1) provides a useful vehicle for the management of bilateral trade and investment relations, based on shared principles and objectives;

(2) establishes procedures for consultation by the two countries on matters of bilateral trade and investment, and should facilitate resolution of disputes on these matters; and

(3) has led to negotiations between the two countries on important issues, and should continue to facilitate such negotiations.

(b) FURTHER IMPLEMENTATION OF THE AGREEMENT.—Within the context of the Bilateral Framework Agreement on Trade and Investment, the President is urged to continue to pursue consultations with representatives of the Government of Mexico for the purposes of implementing the Agreement and achieving an expansion of mutually beneficial trade and investment.

2102. RELATIONS WITH COUNTRIES PROVIDING OFFENSIVE WEAPONRY TO BELLIGERENT COUNTRIES IN THE PERSIAN GULF REGION.

It is the sense of the Congress that the President should use all available appropriate leverage to persuade all countries to desist from any further transfers of offensive weaponry, such as Silkworm missiles, to any belligerent country in the Persian Gulf region.

PART II—FAIR TRADE IN AUTO PARTS

2121. SHORT TITLE.

This part may be referred to as the “Fair Trade in Auto Parts Act of 1988”.

2122. DEFINITION.

For purposes of this part, the term “Japanese markets” refers to markets, including those in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

Fair Trade in
Auto Parts Act
of 1988.
15 USC 4701
note.

15 USC 4701.

SEC. 2123. ESTABLISHMENT OF INITIATIVE ON AUTO PARTS SALES TO JAPAN.

(a) **IN GENERAL.**—The Secretary of Commerce shall establish an initiative to increase the sale of United States-made auto parts and accessories to Japanese markets.

(b) **FUNCTIONS.**—In carrying out this section, the Secretary shall—

(1) foster increased access for United States-made auto parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States auto parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States auto parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies, or practices, whether public or private, that result in barriers to increased commerce between United States auto parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made auto parts in Japanese markets; and

(7) submit annual written reports or otherwise report annually to the Congress on the sale of United States-made auto parts in Japanese markets, including the extent to which long-term, commercial relationships exist between United States auto parts manufacturers and Japanese automobile manufacturers.

Reports.

15 USC 4703.

SEC. 2124. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTO PARTS SALES IN JAPAN.

(a) **IN GENERAL.**—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this part.

(b) **ESTABLISHMENT OF COMMITTEE.**—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this part.

(c) **FUNCTIONS.**—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made auto parts and accessories in Japanese markets;

(2) review and consider data collected on sales of United States-made auto parts and accessories in Japanese markets;

(3) advise the Secretary of Commerce during consultations with the Government of Japan on issues concerning sales of United States-made auto parts in Japanese markets;

(4) assist in establishing priorities for the initiative established under section 2123, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

Reports.

- (5) assist the Secretary in reporting, or otherwise report to the Congress as requested, on the progress of sales of United States-made auto parts in Japanese markets.
- (d) **AUTHORITY.**—The Secretary of Commerce shall draw on existing budget authority in carrying out this part.

SEC. 2125. EXPIRATION DATE.

15 USC 4704.

The authorities under this part shall expire on December 31, 1993.

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

SEC. 2201. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN.

22 USC 3310a.

The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

SEC. 2202. COUNTRY REPORTS ON ECONOMIC POLICY AND TRADE PRACTICES.

15 USC 4711.

The Secretary of State shall, not later than January 31 of each year, prepare and transmit to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives, the Committee on Foreign Relations and the Committee on Finance of the Senate, and to other appropriate committees of the Congress, a detailed report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship. The Secretary may direct the appropriate officers of the Department of State who are serving overseas, in consultation with appropriate officers or employees of other departments and agencies of the United States, including the Department of Agriculture and the Department of Commerce, to coordinate the preparation of such information in a country as is necessary to prepare the report under this section. The report shall identify and describe, with respect to each country—

- (1) the macroeconomic policies of the country and their impact on the overall growth in demand for United States exports;
- (2) the impact of macroeconomic and other policies on the exchange rate of the country and the resulting impact on price competitiveness of United States exports;
- (3) any change in structural policies (including tax incentives, regulations governing financial institutions, production standards, and patterns of industrial ownership) that may affect the country's growth rate and its demand for United States exports;
- (4) the management of the country's external debt and its implications for trade with the United States;
- (5) acts, policies, and practices that constitute significant barriers to United States exports or foreign direct investment in that country by United States persons, as identified under section 181(a)(1) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1));

(6) acts, policies, and practices that provide direct or indirect government support for exports from that country, including exports by small businesses;

(7) the extent to which the country's laws and enforcement of those laws afford adequate protection to United States intellectual property, including patents, trademarks, copyrights, and mask works; and

(8) the country's laws, enforcement of those laws, and practices with respect to internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), the conditions of worker rights in any sector which produces goods in which United States capital is invested, and the extent of such investment.

SEC. 2203. OVERSEAS PRIVATE INVESTMENT CORPORATION.

22 USC 2191
note.

Loans.

(a) **REAFFIRMATION OF SUPPORT FOR OPIC.**—The Congress affirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation's ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs.

(b) **INCREASE IN GUARANTIES AND DIRECT INVESTMENTS.**—

(1) **LOAN GUARANTIES.**—Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended—

(A) in paragraph (2) by striking “\$750,000,000” and inserting “\$1,000,000,000”;

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

“(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 234(b) having an aggregate contingent liability with respect to principal of not less than \$200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guaranties.”.

(2) **DIRECT INVESTMENT.**—Section 235(b) of the Foreign Assistance Act of 1961 is amended—

(A) by striking the comma after “Act of 1981” and inserting a period; and

(B) by striking “and the Corporation shall use” and that follows through “funding” and inserting the following: “The Corporation shall make loans under section 234(c) in an aggregate amount of not less than \$25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans”.

22 USC 2191a.

(c) **OPERATIONS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN THE PEOPLE'S REPUBLIC OF CHINA.**—Section 231A(a) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraph:

“(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.”.

SEC. 2204. TRADE AND DEVELOPMENT PROGRAM.

22 USC 2421
note.

(a) **REAFFIRMATION OF SUPPORT FOR TRADE AND DEVELOPMENT PROGRAM.**—The Congress reaffirms its support for the Trade and Development Program, and believes that the Program's ability

support high priority development projects in developing countries could be enhanced by an increase in the funds authorized for the program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency.

(b) AUTHORIZATION AND USES OF FUNDS; ESTABLISHMENT AS SEPARATE AGENCY.—

(1) ADDITIONAL USES OF FUNDS.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting after the first sentence the following: "Funds under this section may be used to provide support for project planning, development, management, and procurement for both bilateral and multilateral projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States exports in such projects."

(2) ESTABLISHMENT AS A SEPARATE AGENCY.—Section 661 of that Act is amended—

(A) by redesignating subsection (b) as subsection (d); and

(B) by inserting after subsection (a) the following:

"(b)(1) The purposes of this section shall be carried out by the Trade and Development Program, which shall be a separate component agency of the International Development Cooperation Agency. The Trade and Development Program shall not be an agency within the Agency for International Development or any other component agency of the International Development Cooperation Agency.

"(2) There shall be at the head of the Trade and Development program a Director. Any individual appointed as the Director on or after January 1, 1989, shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) The Trade and Development Program should serve as the primary Federal agency to provide information to persons in the private sector concerning trade development and export promotion related to bilateral development projects. The Trade and Development Program shall cooperate with the Office of International Major Projects of the Department of Commerce in providing information to persons in the private sector concerning trade development and export promotion related to multilateral development projects. Other Federal departments and agencies shall cooperate with the Trade and Development Program in order for the Program to more effectively provide informational services in accordance with this paragraph.

"(4) The Director of the Trade and Development Program shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Program in the preceding fiscal year.

"(c) The Director of the Trade and Development Program shall, by regulation, establish an advisory board which shall include representatives of the private sector. The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Program."

(3) FUNDING LEVELS.—In addition to funds otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961—

(A) not less than \$5,000,000 and not more than \$10,000,000 for fiscal year 1988 shall be made available for such purposes, half of which shall be derived from amounts

President of U.S.

Reports.

Regulations.

available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year; and

(B) not less than \$5,000,000 and not more than \$10,000,000 for fiscal year 1989 shall be made available for such purposes, half of which shall be derived from amounts available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year.

(4) **ADDITIONAL FUNDING.**—(A) In addition to the amounts otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961 (including amounts available under paragraph (3) of this subsection) for fiscal years 1988 and 1989, there are authorized to be appropriated \$10,000,000 for each such fiscal year for education and training programs undertaken in connection with projects under section 661 of that Act, including the operating expenses incurred in implementing such programs. Particular emphasis shall be placed on including in such programs nationals from the People's Republic of China and the Republic of China (Taiwan). Assistance may be provided for education and training under this paragraph only if there is a reasonable expectation that such education and training will result in increased exports from the United States and will not have a negative impact on employment in the United States.

Education.

(B) Of the funds made available to carry out subparagraph (A), 50 percent of such funds shall be available only for education and training programs administered in the United States by small business concerns as defined under section 3 of the Small Business Act (15 U.S.C. 632).

Education.

(c) AUTHORITIES UNDER THE TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—

(1) **TRANSFER OF FUNCTIONS FROM AID TO TDP.**—(A) Section 644 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q) is amended—

(i) in subsection (a)(2) by striking “Agency for International Development” and inserting “Trade and Development Program”;

(ii) in subsection (a)(3)(A)—

(I) by striking “offered by the Agency for International Development” and inserting “made available under section 645(d) of this Act”; and

(II) by striking “Agency for International Development” and inserting “Trade and Development Program”; and

(iii) in subsection (d)—

(I) by striking “offered by the Agency for International Development” and inserting “made available under section 645(d) of this Act”; and

(II) by striking “subsections (c) and (d) of section 645” and inserting “section 645(c)”.

(B) Section 645 of that Act (12 U.S.C. 635r) is amended—

(i) in the section heading by striking "IN THE AGENCY FOR INTERNATIONAL DEVELOPMENT" and inserting "ADMINISTERED BY THE TRADE AND DEVELOPMENT PROGRAM";

(ii) in subsection (a)—

(I) by striking "Administrator of the Agency for International Development shall establish within the Agency" and inserting "Director of the Trade and Development Program shall carry out";

(II) in paragraph (1) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)";

(III) in paragraph (1) by striking "Agency for International Development" and inserting "Trade and Development Program";

(IV) in paragraph (2) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)"; and

(V) in paragraph (2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(iii) in subsection (c)—

(I) in paragraph (1) by striking "of the Agency for International Development"; and

(II) in paragraph (2) by striking "Administrator of the Agency for International Development" and inserting "Director of the Trade and Development Program"; and

(iv) by amending subsection (d) to read as follows:

"(d) Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 may be used by the Director of the Trade and Development Program, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961), for the purposes for which funds made available under this subsection are authorized to be used in section 444 and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this Act."

(2) FUNCTIONS OF NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.—Section 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635s) is amended by adding at the end the following:

"(b) The Trade and Development Program shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Program at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters."

(d) ADMINISTRATIVE PROVISIONS.—

(1) PAY OF DIRECTOR OF TDP.—Section 5314 of title 5, United States Code, is amended by adding at the end the following: "Director, Trade and Development Program."

(2) TRANSITION PROVISIONS.—(A) The Administrator of the Agency for International Development shall transfer to the Director of the Trade and Development Program all records,

Records.
Contracts.
12 USC 635q
note.

contracts, applications, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1).

(B) All determinations, regulations, and contracts—

(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rule-making, or any application for any financial assistance, which is pending on the effective date of this section before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program or other authorized official, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Director of the Trade and Development Program is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section, reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program or other official to which such function is so transferred.

15 USC 4712.

SEC. 2205. BARTER AND COUNTERTRADE.

(a) INTERAGENCY GROUP.—

President of U.S.

(1) ESTABLISHMENT.—The President shall establish an interagency group on countertrade, to be composed of representatives of such departments and agencies of the United States as the President considers appropriate. The Secretary of Commerce shall be the chairman of the interagency group.

(2) FUNCTIONS.—It shall be the function of the interagency group to—

(A) review and evaluate—

(i) United States policy on countertrade and offsets, in light of current trends in international countertrade and offsets and the impact of those trends on the United States economy;

(ii) the use of countertrade and offsets in United States exports and bilateral United States foreign economic assistance programs; and

(iii) the need for and the feasibility of negotiating with other countries, through the Organization for Economic Cooperation and Development and other appropriate international organizations, to reach agreements on the use of countertrade and offsets; and

(B) make recommendations to the President and the Congress on the basis of the review and evaluation referred to in subparagraph (A).

(3) **SHARING OF INFORMATION.**—Other departments and agencies of the United States shall provide to the interagency group such information available to such departments and agencies as the interagency group may request, except that the requirements, including penalties for violation thereof, for preserving the confidentiality of such information which are applicable to the officials, employees, experts, or consultants of such departments and agencies shall apply in the same manner to each member of the interagency group and to any other person performing any function under this subsection.

Classified
information.

b) OFFICE OF BARTER.—

(1) **ESTABLISHMENT.**—There is established, within the International Trade Administration of the Department of Commerce, the Office of Barter (hereafter in this section referred to as the “Office”).

(2) **DIRECTOR.**—There shall be at the head of the Office a Director, who shall be appointed by the Secretary of Commerce.

(3) **STAFF.**—The Secretary of Commerce shall transfer such staff to the Office as the Secretary determines is necessary to enable the Office to carry out its functions under this section.

(4) **FUNCTIONS.**—It shall be the function of the Office to—

(A) monitor information relating to trends in international barter;

(B) organize and disseminate information relating to international barter in a manner useful to business firms, educational institutions, export-related Federal, State, and local government agencies, and other interested persons, including publishing periodic lists of known commercial opportunities for barter transactions beneficial to United States enterprises;

(C) notify Federal agencies with operations abroad of instances where it would be beneficial to the United States for the Federal Government to barter Government-owned surplus commodities for goods and services purchased abroad by the Federal Government; and

(D) provide assistance to enterprises seeking barter and countertrade opportunities.

Public
information.
State and local
governments.
Education.

C. 2206. PROTECTION OF UNITED STATES INTELLECTUAL PROPERTY.

It is the sense of the Congress that—

(1) the Secretary of State should urge international technical organizations, such as the World Intellectual Property

Organization, to provide expertise and cooperate fully in developing effective standards, in the General Agreement on Tariffs and Trade, for the international protection of intellectual property rights; and

(2) development assistance programs administered by the Agency for International Development, especially the reimbursable development program, should, in cooperation with the Copyright Office and the Patent and Trademark Office, include technical training for officials responsible for the protection of patents, copyrights, trademarks, and mask works in those countries that receive such development assistance.

SEC. 2207. REPORT ON WORKER RIGHTS.

The Secretary of State shall conduct an in-depth study with a view to improving the breadth, content, and utility of the annual reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 regarding the status of internationally recognized worker rights in foreign countries. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include in the report recommendations for upgrading the capacity of the United States Government to monitor and report on other countries' respect for such rights.

SEC. 2208. JAPANESE IMPORTATION OF MANUFACTURED GOODS FROM LESS DEVELOPED COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) Japan's merchandise trade surplus rose from \$62,000,000,000 in fiscal year 1985 to \$101,000,000,000 in fiscal year 1986;

(2) these surpluses pose a grave threat to the free trade system;

(3) Japan's most important contribution to the international trading system would be to commit itself as a nation to import with vigor, just as it has exported with vigor in recent decades;

(4) Japan should particularly increase its imports of manufactured goods; and

(5) Japan's share of the exports of less developed countries has declined from 10.6 percent in 1979 to below 8 percent in 1985.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) by taking its proportionate share of the manufactured exports of developing countries, Japan will promote not only its economic development but the economic conditions conducive to democracy;

(2) expanding markets for the manufactured exports of less developed countries will directly benefit the United States, and, if less developed countries are able to increase exports to Japan, these countries will be able to earn more of the hard currency needed to service their foreign debt obligations and make the investments necessary to chart a course of solid economic growth; and

(3) if less developed countries are able to export manufactured goods to Japan, they will be under less pressure to divert exports to the United States market.

EC. 2209. JAPAN AND THE ARAB BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

EC. 2210. FACILITATION OF JEWELRY TRADE.

It is the sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the United States jewelry industry in penetrating foreign markets.

EC. 2211. LOAN GUARANTEES.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended by adding at the end the following:

“(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

“(2) Loans guaranteed under this subsection shall be on such terms and conditions as the agency may prescribe, except for the following:

“(A) The agency shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

“(B) Loans guaranteed shall provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

“(C) No loan guaranteed to any one borrower may exceed 50 percent of the cost of the activity to be financed, or \$3,000,000, whichever is less, as determined by the agency.

“(D) No loan may be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

“(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the revolving fund account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the revolving fund account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees shall be reviewed every twelve months to ensure that the fees assessed on new loan guarantees are at the required level.

“(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

“(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing

guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

“(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

“(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

“(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

“(5) The agency shall segregate in the revolving fund account and hold as a reserve an amount estimated to be sufficient to cover the agency’s expected net liabilities on the loan guarantees outstanding under this subsection; except that the amount held in reserve shall not be less than 25 percent of the principal amount of the agency’s outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the revolving fund account and next out of other funds made available for this purpose.”

American Aid to
Poland Act of
1988.

7 USC 1421 note.

PART II—ASSISTANCE TO POLAND

SEC. 2221. SHORT TITLE.

This part may be cited as the “American Aid to Poland Act of 1988”.

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) **FUNDING.**—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, \$1,000,000.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) **DEFINITION.**—For purposes of this section, the term “1987 United States-Polish science and technology agreement” refers to the draft agreement concluded in 1987 by the United States and Poland, entitled “Agreement Between the Government of the United States of America and the Polish People’s Republic on Cooperation in Science and Technology and Its Funding”, together with annexes relating thereto.

7 USC 1431 note.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) **AUTHORITY TO DONATE.**—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission

scribed in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) **DEFINITIONS.**—For purposes of this section—

(1) the term “eligible commodities” has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term “nongovernmental agencies” includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES.

7 USC 1431 note.

(a) **USE OF POLISH CURRENCIES.**—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) **AVAILABILITY OF CURRENCIES.**—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 2225. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: “In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

7 USC 1431.

“(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

“(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

“(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.”.

Handicapped persons.
Children and youth.

Agriculture and agricultural commodities.

SEC. 2226. JOINT COMMISSION.

7 USC 1431 note.

(a) **ESTABLISHMENT.**—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the

Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) **MEMBERSHIP.**—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year \$2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Subtitle C—Export Promotion

USC 4721.

SEC. 2301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) **ESTABLISHMENT.**—

(1) **IN GENERAL.**—The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

(2) **ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL; OTHER PERSONNEL.**—The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

(3) **COORDINATION WITH FOREIGN POLICY OBJECTIVES.**—The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

(4) **AUTHORITY OF CHIEF OF MISSION.**—All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) **STATEMENT OF PURPOSE.**—The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal and regulatory environment within foreign countries;

Patents and
trademarks.
Copyrights.

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries;

Marketing.

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments; and

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts.

State and local
governments.

OFFICES.—

(1) **IN GENERAL.**—The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

(2) **HEADQUARTERS.**—The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service.

Research and
development.

(3) **DISTRICT OFFICES.**—The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

(4) **FOREIGN OFFICES.**—(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980. The Secretary shall designate a Commercial Officer as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered

to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 103 of the Diplomatic Security Act (22 U.S.C. 4802).

(d) RANK OF COMMERCIAL SERVICE OFFICERS IN FOREIGN MISSIONS.—

(1) **MINISTER-COUNSELOR.**—Notwithstanding any other provision of law, the Secretary is authorized to designate up to 8 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister-Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

(2) **CONSUL GENERAL.**—In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

(e) **INFORMATION DISSEMINATION.**—In order to carry out subsection (b)(7), to lessen the cost of distribution of information produced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the information should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

(f) **AUDITS.**—The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commercial Service operations, the audit shall include—

(1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;

(2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and

(3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and

performance appraisal of personnel, the use of limited appointees, and the "time-in-class" system.

(g) **REPORT BY THE SECRETARY.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of Commerce.

(h) **PAY OF ASSISTANT SECRETARY AND DIRECTOR GENERAL.**—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service."

(i) **DEFINITIONS.**—For purposes of this section—

(1) the term "Secretary" means the Secretary of Commerce;

(2) the term "Commercial Service" means the United States and Foreign Commercial Service;

(3) the term "United States exporter" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State; or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(4) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632);

(5) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(6) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

C. 2302. COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANK PROCUREMENT. 15 USC 4722.

(a) **APPOINTMENT OF COMMERCIAL SERVICE OFFICERS TO SERVE WITH EXECUTIVE DIRECTORS.**—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint a procurement officer, who is a representative of the International Trade Administration or a Commercial Service Officer of the United States and Foreign Commercial Service, to serve, on a full-time or part-time basis, with each of the Executive Directors of the multilateral development banks in which the United States participates.

(b) **FUNCTIONS OF OFFICERS.**—Each procurement officer appointed under subsection (a) shall assist the United States Executive Director with respect to whom such officer is appointed in promoting opportunities for exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and the multilateral development bank involved, whether or not the bank has offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relat-

ing to projects which are being proposed by the multilateral development bank, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

Loans.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(c) **DEFINITION.**—As used in this section, the term “multilateral development bank” includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

15 USC 4723.

SEC. 2303. MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) **AUTHORITY OF SECRETARY OF COMMERCE.**—In order to promote further the exportation of goods and services from the United States, the Secretary of Commerce is authorized to establish, in the International Trade Administration of the Department of Commerce, a Market Development Cooperator Program. The purpose of the program is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.

Contracts.

(b) **IMPLEMENTATION OF THE PROGRAM.**—The Secretary of Commerce shall carry out the Market Development Cooperator Program by entering into contracts with—

(1) nonprofit industry organizations,

(2) trade associations,

(3) State departments of trade and their regional associations, including centers for international trade development, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

State and local governments.

(in this section referred to as “cooperators”) to engage in activities in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a). The costs of activities under such a contract shall be shared equitably among the Department of Commerce, the cooperator involved, and, whenever appropriate, foreign businesses. The Department of Commerce shall undertake to support direct costs of activities under such a contract, and the cooperator shall undertake to support indirect costs of such activities. Activities under such a contract shall be carried out by the cooperator with the approval and assistance of the Secretary.

(c) **COOPERATOR PARTNERSHIP PROGRAM.**—

(1) **IN GENERAL.**—(A) As part of the Market Development Cooperator Program established under subsection (a), the Secretary of Commerce shall establish a partnership program with

cooperators under which a cooperator may detail individuals, subject to the approval of the Secretary, to the United States and Foreign Commercial Service for a period of not less than 1 year or more than 2 years to supplement the Commercial Service.

(B) Any individual detailed to the United States and Foreign Commercial Service under this subsection shall be responsible for such duties as the Secretary may prescribe in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a).

(C) Individuals detailed to the United States and Foreign Commercial Service under this subsection shall not be considered to be employees of the United States for the purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary of State concerning the detail of such individuals abroad.

(2) **QUALIFICATIONS OF PARTICIPANTS.**—In order to qualify for the program established under this subsection, individuals shall have demonstrated expertise in the international business arena in at least 2 of the following areas: marketing, market research, and computer data bases.

(3) **EXPENSES OF THE PROGRAM.**—(A) The cooperator who details an individual to the United States and Foreign Commercial Service under this subsection shall be responsible for that individual's salary and related expenses, including health care, life insurance, and other noncash benefits, if any, normally paid by such cooperator.

(B) The Secretary of Commerce shall pay transportation and housing costs for each individual participating in the program established under this subsection.

(d) **BUDGET ACT.**—Contracts may be entered into under this section in a fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

Contracts.

EC. 2304. TRADE SHOWS.

15 USC 4724.

(a) **AUTHORITY OF THE SECRETARY OF COMMERCE.**—In order to facilitate exporting by United States businesses, the Secretary of Commerce shall provide assistance for trade shows in the United States which bring together representatives of United States businesses seeking to export goods or services produced in the United States and representatives of foreign companies or governments seeking to buy such goods or services from these United States businesses.

(b) **RECIPIENTS OF ASSISTANCE.**—Assistance under subsection (a) may be provided to—

- (1) nonprofit industry organizations,
- (2) trade associations,
- (3) foreign trade zones, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

to provide the services necessary to operate trade shows described in subsection (a).

(c) **ASSISTANCE TO SMALL BUSINESSES.**—In providing assistance under this section, the Secretary of Commerce shall, in consultation with the Administrator of the Small Business Administration, make special efforts to facilitate participation by small businesses and companies new to export.

(d) **USES OF ASSISTANCE.**—Funds appropriated to carry out this section shall be used to—

- (1) identify potential participants for trade show organizers,
- (2) provide information on trade shows to potential participants,
- (3) supply language services for participants, and
- (4) provide information on trade shows to small businesses and companies new to export.

(e) **DEFINITIONS.**—As used in this section—

- (1) the term “United States business” means—

- (A) a United States citizen;

- (B) a corporation, partnership, or other association created under the laws of the United States or of any State (including the District of Columbia or any commonwealth, territory, or possession of the United States); or

- (C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B); and

- (2) the term “small business” means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS FOR EXPORT PROMOTION PROGRAMS.

(a) **DEFINITION OF EXPORT PROMOTION PROGRAM.**—Section 201(d) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(d)) is amended—

- (1) in paragraph (3) by striking “and” after the semicolon;
- (2) in paragraph (4) by striking the period and inserting “; and”; and
- (3) by adding at the end the following:

“(5) the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988, and assistance for trade shows provided under section 2304 of that Act.”

(b) **AUTHORIZATION OF APPROPRIATIONS.**—(1) Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

“There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs \$123,922,000 for the fiscal year 1988, and \$146,400,000 for each of the fiscal years 1989 and 1990.”

(2) In addition to funds otherwise available, there are authorized to be appropriated to the Department of Commerce to carry out sections 2303 and 2304 of this Act \$6,000,000 for each of the fiscal years 1988, 1989, and 1990.

15 USC 4725.

SEC. 2306. UNITED STATES AND FOREIGN COMMERCIAL SERVICE PACIFIC RIM INITIATIVE.

Japan.
South Korea.
Taiwan.

(a) **IN GENERAL.**—In order to encourage the export of United States goods and services to Japan, South Korea, and Taiwan, the

United States and Foreign Commercial Service shall make a special effort to—

(1) identify United States goods and services which are not being exported to the markets of Japan, South Korea, and Taiwan but which could be exported to these markets under competitive market conditions;

(2) identify and notify United States persons who sell or provide such goods or services of potential opportunities identified under paragraph (1);

(3) present, periodically, a list of the goods and services identified under paragraph (1), together with a list of any impediments to the export of such goods and services, to appropriate authorities in Japan, South Korea, and Taiwan, with a view toward liberalizing markets to such goods and services;

(4) facilitate the entrance into such markets by United States persons identified and notified under paragraph (2); and

(5) monitor and evaluate the results of efforts to increase the sale of goods and services in such markets.

(b) **REPORTS TO THE CONGRESS.**—The Secretary of Commerce shall report periodically to the Congress on activities carried out under subsection (a).

(c) **DEFINITION.**—As used in this section, the term “United States person” means—

(1) a United States citizen; or

(2) a corporation, partnership, or other association created under the laws of the United States or any State (including the District of Columbia or any commonwealth, territory, or possession of the United States).

SEC. 2307. INDIAN TRIBES EXPORT PROMOTION.

Marketing.
15 USC 4726.

(a) **ASSISTANCE AUTHORIZED.**—The Secretary of Commerce is authorized to provide assistance to eligible entities for the development of foreign markets for authentic American Indian arts and crafts. Eligible entities under this section include Indian tribes, tribal organizations, tribal enterprises, craft guilds, marketing cooperatives, and individual Indian-owned businesses.

(b) **ACTIVITIES ELIGIBLE FOR ASSISTANCE.**—Activities eligible for assistance under this section include, but are not limited to, conduct of market surveys, development of promotional materials, financing of trade missions, participation in international trade fairs, direct marketing, and other market development activities.

(c) **ADMINISTRATION OF ASSISTANCE.**—Assistance under this section shall be administered by the Secretary of Commerce under guidelines developed by the Secretary. Priority shall be given to projects which support the establishment of long term, stable international markets for American Indian arts and crafts and which are designed to provide the greatest economic benefit to American Indian artisans.

(d) **TECHNICAL AND OTHER ASSISTANCE.**—The Secretary of Commerce shall provide technical assistance and support services to applicants eligible for and entities receiving assistance under this section for the purpose of helping them in identifying and entering appropriate foreign markets, complying with foreign and domestic legal and banking requirements regarding the export and import of arts and crafts, and utilizing import and export financial arrangements, and shall provide such other assistance as may be necessary

to support the development of export markets for American Indian arts and crafts.

(e) **LIMITATION ON ASSISTANCE.**—No assistance shall be provided under this section in support of any activity which includes the sale or marketing of any craft items other than authentic arts and crafts hand made or hand crafted by American Indian artisans.

SEC. 2308. PRINTING AT OVERSEAS LOCATIONS.

(a) **PRINTING IN CONJUNCTION WITH EXPORT PROMOTION PROGRAMS.**—Section 201 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051) is amended by adding at the end the following:

“(e) **PRINTING OUTSIDE THE UNITED STATES.**—(1) Notwithstanding the provisions of section 501 of title 44, United States Code, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

“(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

“(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

“(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.”.

SEC. 2309. LOCAL CURRENCIES UNDER PUBLIC LAW 480.

Section 108(i) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1708(i)) is amended—

(1) in paragraph (1) by striking “and”;

(2) in paragraph (2) by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(3) the terms ‘private sector development activity’ and ‘private enterprise investment’ include the construction of low- and medium-income housing and shelter.”.

SEC. 2310. OFFICE OF EXPORT TRADE.

Section 104 of the Export Trading Company Act of 1982 (15 U.S.C. 4003) is amended by adding at the end the following: “The office shall establish a program to encourage and assist the operation of other export intermediaries, including existing and newly formed export management companies.”.

SEC. 2311. REPORT ON EXPORT TRADING COMPANIES.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, on the activities of the Department of Commerce to promote and encourage the formation of new and the operation of existing and new export promotion intermediaries,

cluding export management companies, export trade associations, bank export trading companies, and export trading companies. The report shall include a survey of the activities of export management companies, export trade associations, and those bank export trading companies and export trading companies established pursuant to the amendments made by title II of the Export Trading Company Act of 1982, and pursuant to title III of that Act. The report shall not contain any information subject to the protections from disclosure provided in that Act.

Subtitle D—Export Controls

C. 2401. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

For purposes of this subtitle, the Export Administration Act of 1979 shall be referred to as “the Act”.

PART I—EXPORT CONTROLS GENERALLY

C. 2411. EXPORT LICENSE FEES.

Section 4 of the Act (50 U.S.C. App. 2403) is amended by adding at the end the following:

“(g) FEES.—No fee may be charged in connection with the submission or processing of an export license application.”.

C. 2412. MULTIPLE LICENSE AUTHORITY.

Section 4(a)(2) of the Act (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) by striking the period at the end of the first sentence and inserting “, except that the Secretary may establish a type of distribution license appropriate for consignees in the People’s Republic of China.”; and

(2) in subparagraph (B) in the first sentence by inserting “(except the People’s Republic of China)” after “controlled countries”.

People’s
Republic
of China.

C. 2413. DOMESTIC SALES TO COMMERCIAL ENTITIES OF CONTROLLED COUNTRIES.

Section 5(a)(1) of the Act (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the second sentence the following: “For purposes of the preceding sentence, the term ‘affiliates’ includes both governmental entities and commercial entities that are controlled in fact by controlled countries.”.

C. 2414. AUTHORITY FOR REEXPORTS.

Section 5(a) of the Act (50 U.S.C. App. 2404(a)) is amended by adding at the end the following:

“(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person exporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

“(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

Science and
technology.

Communications
and
telecommunications.

- “(i) supercomputers;
- “(ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);
- “(iii) devices for surreptitious interception of wire or oral communications; and
- “(iv) goods or technology intended for such end users as the Secretary may specify by regulation.

“(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

- “(i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or
- “(ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the ‘controlled United States content’ of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

“(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the reexport of a supercomputer which contains goods or technology subject to the jurisdiction of the United States.

Regulations.

“(6) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall issue regulations to carry out paragraphs (4) and (5). Such regulations shall define the term ‘supercomputer’ for purposes of those paragraphs.”.

SEC. 2415. EXPORTS TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.

Science and
technology.
People's
Republic
of China.

(a) **COCOM COUNTRIES.**—Section 5(b)(2) of the Act (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

“(2)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export goods or technology to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, if the export of such goods or technology to the People's Republic of China or a controlled country on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee.

“(B)(i) The Secretary may require a license for the export of goods or technology described in subparagraph (A) to such end users as the Secretary may specify by regulation.

“(ii) The Secretary may require any person exporting goods or technology under this paragraph to notify the Secretary of those exports.

“(C) The Secretary shall, within 3 months after the date of the enactment of the Export Enhancement Act of 1988, determine which countries referred to in subparagraph (A) are implementing

<p>effective export control system consistent with principles agreed in the Coordinating Committee, including the following:</p> <p>"(i) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;</p> <p>"(ii) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;</p> <p>"(iii) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;</p> <p>"(iv) a system of export control documentation to verify the movement of goods and technology; and</p> <p>"(v) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.</p> <p>The Secretary shall, at least once each year, review the determinations made under the preceding sentence with respect to all countries referred to in subparagraph (A). The Secretary may, as appropriate, add countries to, or remove countries from, the list of countries that are implementing an effective export control system in accordance with this subparagraph. No authority or permission to export may be required for the export of goods or technology to a country on such list."</p> <p>(b) COUNTRIES OTHER THAN COCOM COUNTRIES.—Section 5(b) of the Act (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:</p> <p>(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, goods or technology if the export of the goods or technology to such controlled countries would require only notification of the participating governments of the Coordinating Committee.</p> <p>(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports."</p>	
<p>C. 2416. CONTROL LIST.</p> <p>(a) RESOLUTION OF DISPUTES.—Section 5(c)(2) of the Act (50 U.S.C. App. 2404(c)(2)) is amended by striking the last sentence and inserting the following: "If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list."</p> <p>(b) CONDUCT OF LIST REVIEWS.—</p> <p>(1) CONTROL LIST.—Section 5(c)(3) of the Act is amended to read as follows:</p> <p>(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar</p>	<p>Law enforcement and crime.</p> <p>Law enforcement and crime.</p> <p>Records. Science and technology.</p>
<p>(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, goods or technology if the export of the goods or technology to such controlled countries would require only notification of the participating governments of the Coordinating Committee.</p> <p>(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports."</p>	<p>Science and technology.</p>
<p>C. 2416. CONTROL LIST.</p> <p>(a) RESOLUTION OF DISPUTES.—Section 5(c)(2) of the Act (50 U.S.C. App. 2404(c)(2)) is amended by striking the last sentence and inserting the following: "If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list."</p> <p>(b) CONDUCT OF LIST REVIEWS.—</p> <p>(1) CONTROL LIST.—Section 5(c)(3) of the Act is amended to read as follows:</p> <p>(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar</p>	<p>President of U.S.</p>

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quarter in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each quarterly review, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall use the data developed from each review in formulating United States proposals relating to multilateral export controls in the group known as the Coordinating Committee. The Secretary shall further assess, as part of each review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section. All goods and technology on the list shall be reviewed at least once each year. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.”.

(2) LIST OF MILITARILY CRITICAL TECHNOLOGIES.—Section 5(d)(5) of the Act (50 U.S.C. App. 2404(d)(5)) is amended in the first sentence by striking “at least annually” and inserting “on an ongoing basis”.

(3) TECHNICAL ADVISORY COMMITTEES.—(A) Section 5(c) of the Act is amended by adding at the end the following:

“(4) The appropriate technical advisory committee appointed under subsection (h) of this section shall be consulted by the Secretary with respect to changes, pursuant to paragraph (2) or (3), in the list established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations.”.

(c) CONTROL LIST REDUCTION.—

(1) IN GENERAL.—Section 5(c) of the Act (50 U.S.C. App. 2404(c)) (as amended by subsection (b)(3) of this section) is further amended by adding at the end the following:

“(5)(A) Not later than 6 months after the date of the enactment of this paragraph, the following shall no longer be subject to export controls under this section:

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“(i) All goods or technology the export of which to controlled countries on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, except for those goods or technology on which the Coordinating Committee agrees to maintain such notification requirement.

“(ii) All medical instruments and equipment, subject to the provisions of subsection (m) of this section.

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“(B) The Secretary shall submit to the Congress annually a report setting forth the goods and technology from which export controls have been removed under this paragraph.”.

(2) **ELIMINATION OF UNILATERAL CONTROLS.**—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraph (1) of this subsection) is further amended by adding at the end the following:

6(A) Notwithstanding subsection (f) or (h)(6) of this section, any export control imposed under this section which is maintained laterally by the United States shall expire 6 months after the date of the enactment of this paragraph, or 6 months after the date the export control is imposed, whichever date is later, except that—

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“(i) any such export controls on those goods or technology for which a determination of the Secretary that there is no foreign availability has been made under subsection (f) or (h)(6) of this section before the end of the applicable 6-month period and is in effect may be renewed for periods of not more than 6 months each, and

“(ii) any such export controls on those goods or technology with respect to which the President, by the end of the applicable 6-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those goods or technology may be renewed for 2 periods of not more than 6 months each.

B) Export controls on goods or technology described in clause (i) of subparagraph (A) may be renewed only if, before each renewal, the President submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.”.

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(3) **REVIEW OF CERTAIN LOW TECHNOLOGY ITEMS.**—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraphs (1) and (2) of this subsection) is further amended by adding at the end the following:

7) Notwithstanding any other provision of this subsection, after 1 year has elapsed since the last review in the Federal Register on an item within a category on the control list the export of which to the People's Republic of China would require only notification of the members of the group known as the Coordinating Committee, an export license applicant may file an allegation with the Secretary that such item has not been so reviewed within such 1-year period. Within 90 days after receipt of such allegation, the Secretary—

“(A) shall determine the truth of the allegation;

“(B) shall, if the allegation is confirmed, commence and complete the review of the item; and

“(C) shall, pursuant to such review, submit a finding for publication in the Federal Register.

On such finding, the Secretary shall identify those goods or technology which shall remain on the control list and those goods or technology which shall be removed from the control list. If such review and submission for publication are not completed within that 1-year period, the goods or technology encompassed by such item shall immediately be removed from the control list.”.

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2417. TRADE SHOWS.

Section 5(e) of the Act (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

(6) Any application for a license for the export to the People's Republic of China of any good on which export controls are in effect under this section, without regard to the technical specifications of

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the good, for the purpose of demonstration or exhibition at a trade show shall carry a presumption of approval if—

“(A) the United States exporter retains title to the good during the entire period in which the good is in the People’s Republic of China; and

“(B) the exporter removes the good from the People’s Republic of China no later than at the conclusion of the trade show.”.

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SEC. 2418. FOREIGN AVAILABILITY.—

(a) **IN GENERAL.**—Section 5(f) of the Act (50 U.S.C. App. 2404(f)) is amended to read as follows:

“(f) **FOREIGN AVAILABILITY.**—

“(1) **FOREIGN AVAILABILITY TO CONTROLLED COUNTRIES.**—(A) The Secretary, in consultation with the Secretary of Defense and other appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability to controlled countries, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to controlled countries from such sources in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

“(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a controlled country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine

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whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

“(2) FOREIGN AVAILABILITY TO OTHER THAN CONTROLLED COUNTRIES.—(A) The Secretary shall review, on a continuing basis, the availability to countries other than controlled countries, from sources outside the United States, of any goods or technology the export of which requires a validated license under this section. If the Secretary determines, in accordance with procedures which the Secretary shall establish, that any goods or technology in sufficient quantity and of comparable quality are available in fact from sources outside the United States other than availability under license from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section), the Secretary may not, after the determination is made and during the period of such foreign availability, require a validated license for the export of such goods or technology to any country (other than a controlled country) to which the country from which the goods or technology is available does not place controls on the export of such goods or technology. The requirement with respect to a validated license in the preceding sentence shall not apply if the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

“(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a country (other than a controlled country) and which meets all other requirements for such an application, if the Secretary determines that such goods or technology are available from foreign sources to that country under the criteria established in subparagraph (A), unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

“(3) PROCEDURES FOR MAKING DETERMINATIONS.—(A) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary

may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this subparagraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.

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"(B) In a case in which an allegation is received from an export license applicant, the Secretary shall, upon receipt of the allegation, submit for publication in the Federal Register notice of such receipt. Within 4 months after receipt of the allegation, the Secretary shall determine whether the foreign availability exists, and shall so notify the applicant. If the Secretary has determined that the foreign availability exists, the Secretary shall, upon making such determination, submit the determination for review to other departments and agencies as the Secretary considers appropriate. The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 1 month after the Secretary makes the determination, the Secretary shall respond in writing to the applicant and submit for publication in the Federal Register, that—

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"(i) the foreign availability does exist and—

"(I) the requirement of a validated license has been removed,

"(II) the President has determined that export controls under this section must be maintained notwithstanding the foreign availability and the applicable steps are being taken under paragraph (4), or

"(III) in the case of a foreign availability determination under paragraph (1), the foreign availability determination will be submitted to a multilateral review process in accordance with the agreement of the Coordinating Committee for a period of not more than 4 months beginning on the date of the publication; or

"(ii) the foreign availability does not exist.

In any case in which the submission for publication is not made within the time period specified in the preceding sentence, the Secretary may not thereafter require a license for the export of the goods or technology with respect to which the foreign availability allegation was made. In the case of a foreign availability determination under paragraph (1) to which clause (i)(III) applies, no license for such export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

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"(4) NEGOTIATIONS TO ELIMINATE FOREIGN AVAILABILITY.—(A)

In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. No later than the commencement of such negotiations, the President shall notify

in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important to national security that export controls on the goods or technology involved be maintained.

“(B) If, within 6 months after the President’s determination that export controls be maintained, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export controls involved would prove detrimental to the national security of the United States. Whenever the President has reason to believe that goods or technology subject to export controls for national security purposes by the United States may become available from other countries to controlled countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

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“(C) After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate or prevent foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

“(5) EXPEDITED LICENSES FOR ITEMS AVAILABLE TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.—(A) In any case in which the Secretary finds that any goods or technology from foreign sources is of similar quality to goods or technology the export of which requires a validated license under this section and is available to a country other than a controlled country without effective restrictions, the Secretary shall designate such goods or technology as eligible for export to such country under this paragraph.

“(B) In the case of goods or technology designated under subparagraph (A), then 20 working days after the date of formal filing with the Secretary of an individual validated license application for the export of those goods or technology to an eligible country, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless the license has been denied by the Secretary on account of an inappropriate end user. The Secretary may extend the 20-day period provided in the preceding sentence for an additional period of 15 days if the Secretary requires additional time to consider the application and so notifies the applicant.

“(C) The Secretary may make a foreign availability determination under subparagraph (A) on the Secretary’s own initiative, upon receipt of an allegation from an export license applicant that such availability exists, or upon the submission of a certification by a technical advisory committee of appropriate jurisdiction that such availability exists. Upon receipt of such an allegation or certification, the Secretary shall publish

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notice of such allegation or certification in the Federal Register and shall make the foreign availability determination within 30 days after such receipt and publish the determination in the Federal Register. In the case of the failure of the Secretary to make and publish such determination within that 30-day period, the goods or technology involved shall be deemed to be designated as eligible for export to the country or countries involved, for purposes of subparagraph (B).

“(D) The provisions of paragraphs (1), (2), (3), and (4) do not apply with respect to determinations of foreign availability under this paragraph.

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“(6) OFFICE OF FOREIGN AVAILABILITY.—The Secretary shall establish in the Department of Commerce an Office of Foreign Availability, which shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Commercial Service Officers of the United States and Foreign Commercial Service. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.

Contracts.

“(7) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Office of Foreign Availability concerning foreign availability of goods and technology subject to export controls under this Act. Each such department or agency shall allow the Office of Foreign Availability access to any information from a laboratory or other facility within such department or agency.

“(8) REMOVAL OF CONTROLS ON LESS SOPHISTICATED GOODS OR TECHNOLOGY.—In any case in which Secretary may not, pursuant to paragraph (1), (2), (3), or (4) of this subsection or paragraph (6) of subsection (h) of this section, require a validated license for the export of goods or technology, then the Secretary may not require a validated license for the export of any similar goods or technology whose function, technological approach, performance thresholds, and other attributes that form the basis for export controls under this section do not exceed the technical parameters of the goods or technology from which the validated license requirement is removed under the applicable paragraph.

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“(9) NOTICE OF ALL FOREIGN AVAILABILITY ASSESSMENTS.—Whenever the Secretary undertakes a foreign availability assessment under this subsection or subsection (h)(6), the Sec-

Secretary shall publish notice of such assessment in the Federal Register.

“(10) AVAILABILITY DEFINED.—For purposes of this subsection and subsections (f) and (h), the term ‘available in fact to controlled countries’ includes production or availability of any goods or technology in any country—

“(A) from which the goods or technology is not restricted for export to any controlled country; or

“(B) in which such export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of goods or technology on a list of goods or technology subject to bilateral or multilateral national security export controls shall not alone constitute credible evidence that a country provides an effective means of controlling the export of such goods or technology to controlled countries.”.

TECHNICAL ADVISORY COMMITTEE DETERMINATIONS.—Section 6 of the Act (50 U.S.C. App. 2404(h)(6)) is amended by adding at the end the following: “After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate any availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology at country.”.

TECHNICAL AMENDMENT.—Section 14(a)(8) of the Act (50 U.S.C. (a)(8)) is amended by striking “5(f)(5)” and inserting “5(f)(6)”.

50 USC app.
2413.

2419. REVIEW OF TECHNOLOGY LEVELS.

Section 5(g) of the Act (50 U.S.C. 2404(g)) is amended—

50 USC app.
2404.

(1) by inserting “(1)” immediately before the first sentence; and

(2) by adding at the end the following:

“(A) In carrying out this subsection, the Secretary shall conduct annual reviews of the performance levels of goods or technology—

“(i) which are eligible for export under a distribution license,

“(ii) below which exports to the People’s Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

“(iii) below which no authority or permission to export may be required under subsection (b)(2) or (b)(3) of this section.

Secretary shall make appropriate adjustments to such performance levels based on these reviews.

(B) In any case in which the Secretary receives a request which—

“(i) is to revise the qualification requirements or minimum thresholds of any goods eligible for export under a distribution license, and

“(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

Secretary, after consulting with other appropriate Government agencies and technical advisory committees established under section (h) of this section, shall determine whether to make such revision, or some other appropriate revision, in such qualification requirements or minimum thresholds. In making this determination the Secretary shall take into account the availability of the goods from sources outside the United States. The Secretary shall make a determination on a request made under this subparagraph within 90 days after the date on which the request is filed. If the

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Secretary's determination pursuant to such a request is to make a revision, such revision shall be implemented within 120 days after the date on which the request is filed and shall be published in the Federal Register."

SEC. 2420. FUNCTIONS OF TECHNICAL ADVISORY COMMITTEES.

50 USC app.
2404.

(a) **CONSULTATION ON REVISIONS OF CONTROL LIST AND ON REGULATIONS.**—Section 5(h)(2) of the Act (50 U.S.C. 2404(h)(2)) is amended—

(1) by redesignating clause (E) as clause (F); and

(2) by striking clause (D) and inserting the following: "(D) revisions of the control list (as provided in subsection (c)(4)), including proposed revisions of multilateral controls in which the United States participates, (E) the issuance of regulations, and"

(b) **REVIEW OF REGULATIONS.**—Section 15(b) of the Act (50 U.S.C. App. 2414(b)) is amended in the third sentence—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting after "appropriate" the following: ", and the appropriate technical advisory committee".

SEC. 2421. NEGOTIATIONS WITH COCOM.

(a) **NEGOTIATING OBJECTIVES.**—Section 5(i) of the Act (50 U.S.C. App. 2404(i)) is amended by striking "The President" and inserting "Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President".

(b) **INDUSTRY REPRESENTATIVE TO COCOM.**—Section 5(i) of the Act is amended by adding at the end the following:

"For purposes of reviews of the International Control List, the President may include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed."

SEC. 2422. GOODS CONTAINING MICROPROCESSORS OR CERTAIN OTHER PARTS OR COMPONENTS.

50 USC app.
2404.

Section 5(m) of the Act (50 U.S.C. 2404(m)) is amended to read as follows:

"(m) **GOODS CONTAINING CONTROLLED PARTS AND COMPONENTS.**—Export controls may not be imposed under this section, or under any other provision of law, on a good solely on the basis that the good contains parts or components subject to export controls under this section if such parts or components—

"(1) are essential to the functioning of the good,

"(2) are customarily included in sales of the good in countries other than controlled countries, and

"(3) comprise 25 percent or less of the total value of the good, unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military potential of a controlled country which would prove detrimental to the national security of the United States."

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SEC. 2423. FOREIGN POLICY CONTROLS.

50 USC app.
2405.

(a) **DIPLOMATIC ALTERNATIVES.**—Section 6(a) of the Act (50 U.S.C. 2405(a)) is amended by adding at the end the following:

"(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods,

technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States."

(b) **SPARE PARTS.**—Section 6 of the Act (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(p) **SPARE PARTS.**—(1) At the same time as the President imposes or expands export controls under this section, the President shall determine whether such export controls will apply to replacement parts for parts in goods subject to such export controls.

"(2) With respect to export controls imposed under this section before the date of the enactment of this subsection, an individual validated export license shall not be required for replacement parts which are exported to replace on a one-for-one basis parts that were a good that was lawfully exported from the United States, unless the President determines that such a license should be required for such parts."

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SEC. 2424. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

(a) **TECHNICAL AMENDMENT.**—Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended by striking paragraph (4).

(b) **CRUDE OIL STUDY.**—

50 USC app.
2406 note.

(1) **REVIEW OF EXPORT RESTRICTIONS ON CRUDE OIL.**—The Secretary of Commerce, in consultation with the Secretary of Energy, shall undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the contiguous United States are adequate to protect the energy and national security interests of the United States and American consumers. Taking into account exports licensed since 1983 and potential exports of heavy crude oil produced in California, the review shall assess the effect of increased exports of crude oil produced in the contiguous United States on—

California.

(A) the adequacy of domestic supplies of crude oil and refined petroleum products in meeting United States energy and national security needs;

(B) the quantity, quality, and retail price of petroleum products available to consumers in the United States generally and on the West Coast in particular;

(C) the overall trade deficit of the United States;

(D) the acquisition costs of crude oil by domestic petroleum refiners;

(E) the financial viability of sectors of the domestic petroleum industry (including independent refiners, distributors, marketers, and pipeline carriers); and

(F) the United States tanker fleet (and the industries that support it), with particular emphasis on the availability of militarily useful tankers to meet anticipated national defense requirements.

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(2) **PUBLIC HEARING AND COMMENT.**—The Secretary of Commerce shall provide notice and a reasonable opportunity for public hearing and comment on the review conducted pursuant to this subsection.

(3) **CONSULTATIONS WITH OTHER AGENCIES.**—The Secretary of Commerce shall consult with the Secretary of Defense, the Secretary of the Interior, and the Secretary of Transportation, in addition to the Secretary of Energy, in undertaking the review pursuant to this subsection.

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(4) **FINDINGS, OPTIONS, AND RECOMMENDATIONS.**—After taking public comment and consulting with appropriate State and Federal officials, the Secretary of Commerce, in consultation with the Secretary of Energy, shall develop findings, options, and recommendations regarding the adequacy of existing statutory restrictions on the export of crude oil produced in the contiguous United States in protecting the energy and national security interests of the United States and American consumers.

(5) **CONSULTATIONS AND REPORT.**—In carrying out this subsection, the Secretary of Commerce shall consult with the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources of the Senate. Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to each of those committees a report which contains the results of the review undertaken pursuant to this subsection and the findings, options, and recommendations developed under paragraph (4).

SEC. 2425. PROCEDURES FOR LICENSE APPLICATIONS.

(a) **REVIEW OF LICENSE APPLICATIONS BY THE SECRETARY OF DEFENSE.**—Section 10(g) of the Act (50 U.S.C. App. 2409(g)) is amended—

(1) in paragraph (2)(A) by inserting “and the Secretary” after “to the President”;

(2) by inserting before the last sentence of paragraph (2) the following:

“Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense.”;

(3) by adding at the end of paragraph (2) the following: “If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification.”; and

(4) by striking paragraph (4).

(b) **REPORT BY SECRETARIES OF COMMERCE AND DEFENSE.**—The Secretary of Commerce and the Secretary of Defense shall each evaluate and, not later than 4 months after the date of the enactment of this Act, shall jointly prepare and submit a report to the

Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the review by the Department of Defense for national security purposes as provided in the Export Administration Act of 1979, of export license applications for exports to countries other than controlled countries under section 5(b)(1) of that Act.

(c) **REPORT ON SMALL BUSINESSES.**—Section 10(m) of the Act (50 U.S.C. App. 2409(m)) is amended by adding at the end the following: "The Secretary shall, not later than 120 days after the date of the enactment of the Export Enhancement Act of 1988, report to the Congress on steps taken to implement the plan developed under this subsection to assist small businesses in the export licensing application process."

SEC. 2426. VIOLATIONS.

Section 11(h) of the Act (50 U.S.C. App. 2410(h)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "No"; and

(B) by inserting after "violation of" the following: "this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act,"; and

(2) by adding at the end the following:

"(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act."

SEC. 2427. ENFORCEMENT.

Section 12(a)(2)(B) of the Act (50 U.S.C. App. 2411(a)(2)(B)) is amended by adding at the end the following: "The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 12(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law."

Science and
technology.

SEC. 2428. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

Courts, U.S.

(a) **JUDICIAL REVIEW.**—(1) Section 13(c) of the Act (50 U.S.C. App. 2412(c)) is amended—

(A) in the last sentence of paragraph (1) by inserting before the period ", except as provided in paragraph (3)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The order of the Secretary under paragraph (1) shall be final except that the charged party may, within 15 days after the order is issued, appeal the order in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may, while the appeal is pending, stay the order of the Secretary. The court may review only those issues necessary to

Law
enforcement and
crime.

Records.

determine liability for the civil penalty or other sanction involved. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence on the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”.

(2) Section 13(d) of the Act (50 U.S.C. App. 2412(d)) is amended—

(A) in the fifth sentence of paragraph (2) by inserting before the period “, except as provided in paragraph (3)”; and

Records.

(B) by adding at the end of paragraph (2) the following: “All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the courts.

“(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the standard for issuing the temporary denial order has been met. The court shall vacate the Secretary’s order if the court finds that the Secretary’s order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”.

(b) ISSUANCE OF TEMPORARY DENIAL ORDERS.—Section 13(d)(1) of the Act (50 U.S.C. App. 2412(d)(1)) is amended in the second sentence by striking “60” each place it appears and inserting “180”.

SEC. 2429. RESPONSIBILITIES OF THE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

Defense and
national
security.

Section 15(a) of the Act (50 U.S.C. App. 2414(a)) is amended by inserting “and such other statutes that relate to national security” after “functions of the Secretary under this Act”.

SEC. 2430. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) of the Act (50 U.S.C. App. 2417(b)) is amended—
(1) in paragraph (1)—

(A) by striking “each of the fiscal years 1987 and 1988” and inserting “the fiscal year 1988”;

(B) by striking “for each such year” each place it appears and

(C) by striking “and” after the semicolon; and

(2) by striking paragraph (2) and inserting the following:

“(2) \$46,913,000 for the fiscal year 1989, of which \$15,000,000 shall be available only for enforcement, \$5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, \$4,000,000 shall be available only for regional export control assistance centers, and \$22,913,000 shall be available for all other activities under this Act; and

“(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.”.

SEC. 2431. TERMINATION DATE.

50 USC app.
2419.

Section 20 of the Act (50 U.S.C. 2419) is amended by striking “1989” and inserting “1990”.

EC. 2432. MONITORING OF WOOD EXPORTS.

The Secretary of Commerce shall, for a period of 2 years beginning on the date of the enactment of this Act, monitor exports of processed and unprocessed wood to all countries of the Pacific Rim. The Secretary shall include the results of such monitoring in monthly reports setting forth, with respect to each item monitored, actual exports, the destination by country, and the domestic and worldwide price, supply, and demand. The Secretary shall transmit such reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

50 USC app.
2406 note.

Reports.

EC. 2433. STUDY ON NATIONAL SECURITY EXPORT CONTROLS.

50 USC app.
2404 note.

(a) ARRANGEMENTS FOR AND CONTENTS OF STUDY.—

(1) ARRANGEMENTS FOR CONDUCTING STUDY.—The Secretary of Commerce and the Secretary of Defense, not later than 60 days after the date of the enactment of this Act, shall enter into appropriate arrangements with the National Academy of Sciences and the National Academy of Engineering (hereafter in this section referred to as the “Academies”) to conduct a comprehensive study of the adequacy of the current export administration system in safeguarding United States national security while maintaining United States international competitiveness and Western technological preeminence.

(2) REQUIREMENTS OF STUDY.—Recognizing the need to minimize the disruption of United States trading interests while preventing Western technology from enhancing the development of the military capabilities of controlled countries, the study shall—

(A) identify those goods and technologies which are likely to make crucial differences in the military capabilities of controlled countries, and identify which of those goods and technologies controlled countries already possess or are available to controlled countries from other sources;

(B) develop implementable criteria by which to define those goods and technologies;

(C) demonstrate how such criteria would be applied to the control list by the relevant agencies to revise the list, eliminate ineffective controls, and strengthen controls;

(D) develop proposals to improve United States and multilateral assessments of foreign availability of goods and technology subject to export controls; and

(E) develop proposals to improve the administration of the export control program, including procedures to ensure timely, predictable, and effective decision-making.

(b) ADVISORY PANEL.—In conducting the study under subsection (a), the Academies shall appoint an Advisory Panel of not more than 14 members who shall be selected from among individuals in private life who, by virtue of their experience and expertise, are knowledgeable in relevant scientific, business, legal, or administrative matters. No individual may be selected as a member who, at the time of his or her appointment, is an elected or appointed official or employee in the executive, legislative, or judicial branch of the Government. In selecting members of the Advisory Panel, the Academies shall seek suggestions from the President, the Congress, and representatives of industry and the academic community.

Classified
information.

(c) **EXECUTIVE BRANCH COOPERATION.**—The Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency, and the head of any department or agency that exercises authority in export administration—

(1) shall furnish to the Academies, upon request and under appropriate safeguards, classified or unclassified information which the Academies determine to be necessary for the purposes of conducting the study required by this section; and

(2) shall work with the Academies on such problems related to the study as the Academies consider necessary.

(d) **REPORT.**—Under the direction of the Advisory Panel, the Academies shall prepare and submit to the President and the Congress, not later than 18 months after entering into the arrangements referred to in subsection (a), a report which contains a detailed statement of the findings and conclusions of the Academies pursuant to the study conducted under subsection (a), together with their recommendations for such legislative or regulatory reforms as they consider appropriate.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$900,000 to carry out this section.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

Multilateral
Export Control
Enhancement
Amendments
Act.
50 USC app.
2401 note.

SEC. 2441. SHORT TITLE.

This part may be cited as the “Multilateral Export Control Enhancement Amendments Act”.

50 USC app.
2410a note.

SEC. 2442. FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the Coordinating Committee (hereafter in this part referred to as “COCOM”) in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

(a) **SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.**—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union, by any department, agency, or instrumentality of the United States Government; and

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) **SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG AAPENFABRIKK.**—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Aapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) **EXCEPTIONS.**—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) **DEFINITIONS.**—For purposes of this section—

(1) the term “component part” means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term “finished product” means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such

President of U.S. Contracts. 50 USC app. 2401a note.

Defense and national security.

Science and technology.

term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

SEC. 2444. MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.

The Act is amended by inserting after section 11 the following new section:

"MULTILATERAL EXPORT CONTROL VIOLATIONS

50 USC app.
2410a.

"SEC. 11A. (a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

Defense and
national
security.

"(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

Arms and
munitions.

"(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after the date of the enactment of the Export Enhancement Act of 1988.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

Contracts.

"(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

"(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

Defense and
national
security.
Contracts.

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

“(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

“(2) to—

“(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

Contracts.

“(B) spare parts;

“(C) component parts, but not finished products, essential to United States products or production;

“(D) routine servicing and maintenance of products; or

“(E) information and technology.

Science and technology.

“(d) **EXCLUSION.**—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

“(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

“(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

“(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

Law enforcement and crime.

“(B) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

“(C) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

Law enforcement and crime.

“(D) a system of export control documentation to verify the movement of goods and technology; and

Records.

“(E) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

“(e) **DEFINITIONS.**—For purposes of this section—

“(1) the term ‘component part’ means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

“(2) the term ‘finished product’ means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

“(3) the term ‘sanctioned person’ means a foreign person, and any parent, affiliate, subsidiary, or successor entity of the for-

foreign person, upon whom sanctions have been imposed under this section.

“(f) **SUBSEQUENT MODIFICATIONS OF SANCTIONS.**—The President may, after consultation with the Congress, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed if the President determines that—

“(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of available evidence, itself violated the export control regulation involved, either directly or through a course of conduct;

“(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in subsection (d)(2);

“(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the export control regime implemented under paragraph (2); and

“(4) the impact of the sanctions imposed on the parent, affiliate, subsidiary, or successor entity is proportionate to the increased defense expenditures imposed on the United States. Notwithstanding the preceding sentence, the President may not limit the scope of the sanction referred to in subsection (b)(1) with respect to the parent of the foreign person determined to have committed the violation, until that sanction has been in effect for at least 2 years.

President of U.S.

“(g) **REPORTS TO CONGRESS.**—The President shall include in the annual report submitted under section 14, a report on the status of any sanctions imposed under this section, including any exceptions, exclusions, or modifications of sanctions that have been applied under subsection (c), (d), or (f).

Defense and national security.

“(h) **DISCRETIONARY IMPOSITION OF SANCTIONS.**—If the President determines that a foreign person has violated a regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, but in a case in which subsection (a)(2) may not apply, the President may apply the sanctions referred to in subsection (b) against that foreign person for a period of not more than 5 years.

President of U.S.
Research and development.
Contracts.

“(i) **COMPENSATION FOR DIVERSION OF MILITARILY CRITICAL TECHNOLOGIES TO CONTROLLED COUNTRIES.**—(1) In cases in which sanctions have been applied against a foreign person under subsection (a), the President shall initiate discussions with the foreign person and the government with jurisdiction over that foreign person regarding compensation on the part of the foreign person in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and the allies of the United States to counteract the effect of the technological advance achieved by the Soviet Union as a result of the violation by that foreign person.

Reports.

“(2) The President shall, at the time that discussions are initiated under paragraph (1), report to the Congress that such discussions are being undertaken, and shall report to the Congress the outcome of those discussions.

“(j) **OTHER ACTIONS BY THE PRESIDENT.**—Upon making a determination under subsection (a) or (h), the President shall—

“(1) initiate consultations with the foreign government with jurisdiction over the foreign person who committed the violation involved, in order to seek prompt remedial action by that government;

“(2) initiate discussions with the governments participating in the Coordinating Committee regarding the violation and means to ensure that similar violations do not occur; and

“(3) consult with and report to the Congress on the nature of the violation and the actions the President proposes to take, or has taken, to rectify the situation.

Reports.

“(k) **DAMAGES FOR CERTAIN VIOLATIONS.**—(1) In any case in which the President makes a determination under subsection (a), the Secretary of Defense shall determine the costs of restoring the military preparedness of the United States on account of the violation involved. The Secretary of Defense shall notify the Attorney General of his determination, and the Attorney General may bring an action for damages, in any appropriate district court of the United States, to recover such costs against the person who committed the violation, any person that is owned or controlled by the person who committed the violation, and any person who owns and controls the person who committed the violation.

Defense and national security.

“(3) The total amount awarded in any case brought under paragraph (2) shall be determined by the court in light of the facts and circumstances, but shall not exceed the amount of the net loss to the national security of the United States. An action under this subsection shall be commenced not later than 3 years after the violation occurs, or one year after the violation is discovered, whichever is later.

Courts, U.S.

“(l) **DEFINITION.**—For purposes of this section, the term ‘foreign person’ means any person other than a United States person.”.

SEC. 2445. ANNUAL REPORT OF DEFENSE IMPACT.

Section 14 of the Act (50 U.S.C. App. 2413) is amended by adding at the end the following new subsection:

“(f) **ANNUAL REPORT OF THE PRESIDENT.**—The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.”.

Classified information.

SEC. 2446. IMPROVED MULTILATERAL COOPERATION.

Section 5(i) of the Act (50 U.S.C. App. 2404) (relating to multilateral export controls), as amended by section 2421 of this Act, is further amended by striking paragraphs (1) through (9) and inserting the following:

“(1) Enhanced public understanding of the Committee’s purpose and procedures, including publication of the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

“(2) Periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the Committee.

“(3) Strengthened legal basis for each government’s export control system, including, as appropriate, increased penalties and statutes of limitations.

“(4) Harmonization of export control documentation by the participating governments to verify the movement of goods and technology subject to controls by the Committee.

“(5) Improved procedures for coordination and exchange of information concerning violations of the agreement of the Committee.

“(6) Procedures for effective implementation of the agreement through uniform and consistent interpretations of export controls agreed to by the governments participating in the Committee.

“(7) Coordination of national licensing and enforcement efforts by governments participating in the Committee, including sufficient technical expertise to assess the licensing status of exports and to ensure end-use verification.

“(8) More effective procedures for enforcing export controls, including adequate training, resources, and authority for enforcement officers to investigate and prevent illegal exports.

“(9) Agreement to provide adequate resources to enhance the functioning of individual national export control systems and of the Committee.

“(10) Improved enforcement and compliance with the agreement through elimination of unnecessary export controls and maintenance of an effective control list.

“(11) Agreement to enhance cooperation among members of the Committee in obtaining the agreement of governments outside the Committee to restrict the export of goods and technology on the International Control List, to establish an ongoing mechanism in the Committee to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the International Control List if such items continue to be available to controlled countries or if the control of the items no longer serves the common strategic objectives of the members of the Committee.”

SEC. 2447. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **TRADE EXPANSION ACT OF 1962.**—Section 233 of the Trade Expansion Act of 1962 (19 U.S.C 1864) is amended—

(1) by striking out “(a)”; and

(2) by striking out subsection (b).

(b) **DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988.**—Sections 8124 and 8129 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(d) of Public Law 100-202) are repealed.

101 Stat. 1329-85,
1329-86.

Subtitle E—Miscellaneous Provisions

SEC. 2501. TRADING WITH THE ENEMY ACT.

(a) **TERMINATION OF OFFICE OF ALIEN PROPERTY.**—(1) The Trading with the Enemy Act is amended by striking subsections (b) through

(e) of section 39 (50 U.S.C. App. 39) and inserting the following new subsection:

“(b) The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to the Attorney General under this Act—

“(1) which the Attorney General receives after the date of the enactment of the Export Enhancement Act of 1988, or

“(2) which the Attorney General received before that date and which, as of that date, the Attorney General had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his or her discretion are the subject matter of any judicial action or proceeding.”.

(2) Subsection (f) of such section is amended—

(A) by striking “(f)” and inserting “(c)”; and

(B) by striking “through (d)” and inserting “and (b)”.

(b) REMOVAL OF REPORTING REQUIREMENT.—Section 6 of such Act (50 U.S.C. App. 6) is amended in the next to the last sentence by striking “: *Provided further*,” and all that follows through the end of the section and inserting a period.

SEC. 2502. LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES.

(a) TRADING WITH THE ENEMY ACT.—(1) Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

“(4) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.”.

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited.

50 USC app. 5
note.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(A) in paragraph (1) by striking “or” after the semicolon;

(B) in paragraph (2) by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.”.

50 USC app. 1702
note.

(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.

SEC. 2503. BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

TITLE III—INTERNATIONAL FINANCIAL POLICY

Subtitle A—Exchange Rates and International Economic Policy Coordination

Exchange Rates
and
International
Economic Policy
Coordination Act
of 1988.
22 USC 5301.

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the “Exchange Rates and International Economic Policy Coordination Act of 1988”.

22 USC 5302.

SEC. 3002. FINDINGS.

The Congress finds that—

(1) the macroeconomic policies, including the exchange rate policies, of the leading industrialized nations require improved coordination and are not consistent with long-term economic growth and financial stability;

(2) currency values have a major role in determining the patterns of production and trade in the world economy;

(3) the rise in the value of the dollar in the early 1980's contributed substantially to our current trade deficit;

(4) exchange rates among major trading nations have become increasingly volatile and a pattern of exchange rates has at times developed which contribute to substantial and persistent imbalances in the flow of goods and services between nations, imposing serious strains on the world trading system and frustrating both business and government planning;

(5) capital flows between nations have become very large compared to trade flows, respond at times quickly and dramatically to policy and economic changes, and, for these reasons, contribute significantly to uncertainty in financial markets, the volatility of exchange rates, and the development of exchange rates which produce imbalances in the flow of goods and services between nations;

(6) policy initiatives by some major trading nations that manipulate the value of their currencies in relation to the United States dollar to gain competitive advantage continue to create serious competitive problems for United States industries;

(7) a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the United States current account should be a major focus of national economic policy;

(8) procedures for improving the coordination of macroeconomic policy need to be strengthened considerably; and

(9) under appropriate circumstances, intervention by the United States in foreign exchange markets as part of a coordinated international strategic intervention effort could produce more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assist adjustment toward a more appropriate and sustainable balance in current accounts.

SEC. 3003. STATEMENT OF POLICY.

22 USC 5303.

It is the policy of the United States that—

(1) the United States and the other major industrialized countries should take steps to continue the process of coordinating monetary, fiscal, and structural policies initiated in the Plaza Agreement of September 1985;

(2) the goal of the United States in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows and to foster price stability in conjunction with economic growth;

(3) the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts; and

(4) the accountability of the President for the impact of economic policies and exchange rates on trade competitiveness should be increased.

SEC. 3004. INTERNATIONAL NEGOTIATIONS ON EXCHANGE RATE AND ECONOMIC POLICIES.

22 USC 5304.

(a) **MULTILATERAL NEGOTIATIONS.**—The President shall seek to confer and negotiate with other countries—

President of U.S.

(1) to achieve—

(A) better coordination of macroeconomic policies of the major industrialized nations; and

(B) more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and

(2) to develop a program for improving existing mechanisms for coordination and improving the functioning of the exchange rate system to provide for long-term exchange rate stability consistent with more appropriate and sustainable current account balances.

(b) **BILATERAL NEGOTIATIONS.**—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United

States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.

USC 5305.

SEC. 3005. REPORTING REQUIREMENTS.

(a) **REPORTS REQUIRED.**—In furtherance of the purpose of this title, the Secretary, after consultation with the Chairman of the Board, shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on or before October 15 of each year, a written report on international economic policy, including exchange rate policy. The Secretary shall provide a written update of developments six months after the initial report. In addition, the Secretary shall appear, if requested, before both committees to provide testimony on these reports.

(b) **CONTENTS OF REPORT.**—Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of our major trade competitors;

(2) an evaluation of the factors in the United States and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows;

(3) a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an assessment of the impact of the exchange rate of the United States dollar on—

(A) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account;

(B) production, employment, and noninflationary growth in the United States;

(C) the international competitive performance of United States industries and the external indebtedness of the United States;

(5) recommendations for any changes necessary in United States economic policy to attain a more appropriate and sustainable balance in the current account;

(6) the results of negotiations conducted pursuant to section 3004;

(7) key issues in United States policies arising from the most recent consultation requested by the International Monetary Fund under article IV of the Fund's Articles of Agreement; and

(8) a report on the size and composition of international capital flows, and the factors contributing to such flows, includ-

ing, where possible, an assessment of the impact of such flows on exchange rates and trade flows.

(c) **REPORT BY BOARD OF GOVERNORS.**—Section 2A(1) of the Federal Reserve Act (12 U.S.C. 225a(1)) is amended by inserting after “the Nation” the following: “, including an analysis of the impact of the exchange rate of the dollar on those trends”.

SEC. 3006. DEFINITIONS.

22 USC 5306.

As used in this subtitle:

(1) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

(2) **BOARD.**—The term “Board” means the Board of Governors of the Federal Reserve System.

Subtitle B—International Debt

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

International
Debt
Management
Act of 1988.
Developing
countries.
Banks and
banking.
22 USC 5321.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the “International Debt Management Act of 1988”.

SEC. 3102. FINDINGS.

22 USC 5322.

The Congress finds that—

(1) the international debt problem threatens the safety and soundness of the international financial system, the stability of the international trading system, and the economic development of the debtor countries;

(2) orderly reduction of international trade imbalances requires very substantial growth in all parts of the world economy, particularly in the developing countries;

(3) growth in developing countries with substantial external debts has been significantly constrained over the last several years by a combination of high debt service obligations and insufficient new flows of financial resources to these countries;

(4) substantial interest payment outflows from debtor countries, combined with inadequate net new capital inflows, have produced a significant net transfer of financial resources from debtor to creditor countries;

(5) negative resource transfers at present levels severely depress both investment and growth in the debtor countries, and force debtor countries to reduce imports and expand exports in order to meet their debt service obligations;

(6) current adjustment policies in debtor countries, which depress domestic demand and increase production for export, help to depress world commodity prices and limit the growth of export markets for United States industries;

(7) the United States has borne a disproportionate share of the burden of absorbing increased exports from debtor countries, while other industrialized countries have increased their imports from developing countries only slightly;

(8) current approaches to the debt problem should not rely solely on new lending as a solution to the debt problem, and should focus on other financing alternatives including a reduction in current debt service obligations;

(9) new international mechanisms to improve the management of the debt problem and to expand the range of financing options available to developing countries should be explored; and

(10) industrial countries with strong current account surpluses have a disproportionate share of the world's capital resources, and bear an additional responsibility for contributing to a viable long-term solution to the debt problem.

22 USC 5323.

SEC. 3103. PURPOSES.

The purposes of this subtitle are—

(1) to expand the world trading system and raise the level of exports from the United States to the developing countries in order to reduce the United States trade deficit and foster economic expansion and an increase in the standard of living throughout the world;

(2) to alleviate the current international debt problem in order to make the debt situation of developing countries more manageable and permit the resumption of sustained growth in those countries; and

(3) to increase the stability of the world financial system and ensure the safety and soundness of United States depository institutions.

22 USC 5324.

SEC. 3104. STATEMENT OF POLICY.

It is the policy of the United States that—

(1) increasing growth in the developing world is a major goal of international economic policy;

(2) it is necessary to broaden the range of options in dealing with the debt problem to include improved mechanisms to restructure existing debt;

(3) active consideration of a new multilateral authority to improve the management of the debt problem and to share the burdens of adjustment more equitably must be undertaken; and

(4) countries with strong current account surpluses bear a major responsibility for providing the financial resources needed for growth in the developing world.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

22 USC 5331.

SEC. 3111. INTERNATIONAL INITIATIVE.**(a) DIRECTIVE.—**

(1) **STUDY.**—The Secretary of the Treasury shall study the feasibility and advisability of establishing the International Debt Management Authority described in this section.

(2) **EXPLANATION OF DETERMINATIONS.**—If the Secretary of the Treasury determines that initiation of international discussions with regard to such authority would (A) result in material increase in the discount at which sovereign debt is sold, (B) materially increase the probability of default on such debt, or (C) materially enhance the likelihood of debt service failure or disruption, the Secretary shall include in his interim reports to the Congress an explanation in detail of the reasons for such determination.

(3) **INITIATION OF DISCUSSIONS.**—Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the International Debt Management Authority, which would undertake to—

(A) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

(B) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

(i) ease the current debt service burden on the debtor countries; and

(ii) provide additional opportunities for economic growth in both debtor and industrialized countries; and

(C) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

(b) **OBJECTIVES.**—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations. Loans.

(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development and the various regional development banks.

(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and to function subject to the prohibitions contained in the first sentence of section 3112(a).

(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this timeframe.

(c) **INTERIM REPORTS.**—At the end of the 6-month period beginning on the date of enactment of this Act and at the end of the 12-month period beginning on such date of enactment, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, and shall consult with such committees after submitting each such report.

(d) **FINAL REPORT.**—On the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may

determine to be necessary or appropriate for the establishment of the International Debt Management Authority.

22 USC 5332.

SEC. 3112. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY.

(a) **IN GENERAL.**—No funds, appropriations, contributions, callab capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation or support of the International Debt Management Authority specified in section 3111, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of the review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 3111; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 3111.

Reports.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 3111.

(b) **CONSTRUCTION OF SECTION.**—Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

22 USC 5333.

SEC. 3113. IMF-WORLD BANK REVIEW.

(a) **IMF REVIEW.**—The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

(b) **WORLD BANK REVIEW.**—The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and Development to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt.

recapitalization and debt conversion techniques, discounted debt purchases, and the International Debt Management Authority established in section 3111 no later than 1 year after the date of the enactment of this Act.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

3121. PROVISIONS RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

REGULATORY OBJECTIVES.—It is the sense of the Congress that the actions prescribed by Federal banking regulatory agencies which affect the international assets of United States commercial banks should grant the widest possible latitude to the banks for facilitating principal and interest reductions with respect to obligations of heavily indebted sovereign borrowers.

FLEXIBILITY IN DEBT RESTRUCTURING.—It is the intent of the Congress that, in applying generally accepted accounting standards, Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) apply to such institutions maximum flexibility in determining the asset value of restructured loans to heavily indebted sovereign borrowers and in accounting for the effects of such restructuring respectively. Loans.

RECAPITALIZATION.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should require depository institutions with substantial amounts of loans to heavily indebted sovereign borrowers to seek, as appropriate, expanded recapitalization through equity financing to ensure prudent institutional capital-to-total asset ratios are established and maintained.

RESERVES FOR LOAN LOSSES.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should seek to ensure that appropriate levels of reserves be established by depository institutions engaged in substantial lending to heavily indebted sovereign borrowers in accordance with both the credit and country risks associated with such lending.

DATA ON BANKS FOREIGN LOAN RISKS.—Section 913 of the International Lending Supervision Act of 1983 is amended by adding at the end thereof the following new subsection: 12 USC 3912.

(d) To ensure that Congress is fully informed of the risks to our banking system posed by troubled foreign loans, the Federal banking agencies, before March 31, 1989, and on April 30 of each succeeding year, shall jointly submit to the Committee on Banking, Finance, and Urban Affairs of the Senate and Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall include the following: Reports.

“(1) The level of loan exposure of those banking institutions under the jurisdiction of each agency which is rated ‘value-impaired’, ‘substandard’, ‘other transfer risk problems’, or in any other troubled debt category as may be established by the

banking agencies. This tabulation shall clearly identify aggregate loan exposures of the 9 largest United States banks under the agencies' jurisdiction, the aggregate loan exposures of the next 13 largest banks, and the aggregate exposure of all other such banks which have significant country risk exposures. This tabulation shall include a separate section identifying, to the extent feasible, new bank loans to countries with debt service problems which were made within the past year preceding the date on which the report required under this subsection is due, and shall include the amount of sovereign loans written off or sold by such banks during the preceding year.

"(2) Progress that has been achieved by the appropriate Federal banking agencies and by banking institutions in reducing the risk to the economy of the United States posed by the exposure of banking institutions to troubled international loans through appropriate voluntary or regulatory policies, including increases in capital and reserves of banking institutions.

"(3) The relationship between lending activity by the United States banks and foreign banks in countries experiencing debt service difficulties and exports from the United States and other lending countries to these markets, and the extent to which United States banking institutions can be encouraged to continue to make credit available to finance necessary growth in international trade, and particularly to finance United States exports.

"(4) The response of regulatory agencies in other countries to the international debt problems, including measures which encourage the building of capital and reserves by foreign banking institutions, tax treatment of reserves, encouragement of new lending to promote international trade, and measures which may place United States banking institutions at a competitive disadvantage when compared with foreign banking institutions.

"(5) Steps that have been taken during the previous year by countries experiencing debt service difficulties to enhance conditions for private direct investment (including investment by United States persons) and to eliminate production subsidies, attain price stability, and undertake such other steps as will remove the causes of their debt service difficulties.

Each appropriate Federal banking agency may provide data in the aggregate to the extent necessary to preserve the integrity and confidentiality of the regulatory and examination process."

SEC. 3122. STUDIES RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) **REGULATORY STUDY REQUIRED.**—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall conduct a study to determine the extent of any regulatory obstacle to negotiated reductions in the debt service obligations associated with foreign debt.

(b) **SPECIFIC FACTORS TO BE STUDIED.**—The study required by subsection (a) shall include an analysis of regulatory and accounting obstacles to various forms of debt restructuring, including negotiated interest reduction, the amortization of loan losses, securitization and debt conversion techniques, and discounted debt repurchases, as well as an analysis of the profitability of commercial bank lending to developing countries during the 10-year period

Classified
information.

Loans.

ending on December 31, 1986. The analysis should include an assessment of the impact of the various forms of debt restructuring on the development of a secondary market in developing country debt and on the safety and soundness of the United States banking system.

(c) **REPORT REQUIRED.**—Within 6 months after the date of the enactment of this Act, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing the findings and conclusions of such agencies with respect to the study required under subsection (a), together with any recommendations concerning legislation which such agencies determine to be necessary or appropriate to remove regulatory obstacles to negotiated reductions in the debt service obligations associated with sovereign debt.

SEC. 3123. LIMITED PURPOSE SPECIAL DRAWING RIGHTS FOR THE POOREST HEAVILY INDEBTED COUNTRIES.

(a) STUDY REQUIRED.—

(1) **IN GENERAL.**—The Secretary of the Treasury, in consultation with the directors and staff of the International Monetary Fund and such other interested parties as the Secretary may determine to be appropriate, shall conduct a study of the feasibility and the efficacy of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the International Monetary Fund of limited purpose Special Drawing Rights to such countries in accordance with a plan which provides that—

(A) the allocation be made without regard to the quota established for any such country under the Articles of Agreement of the Fund;

(B) limited purpose Special Drawing Rights be used only to repay official debt of any such country;

(C) the allocation of limited purpose Special Drawing Rights to any such country not be treated as an allocation on which such country must pay interest to the Fund; and

(D) the use of limited purpose Special Drawing Rights by any such country to repay official debt shall be treated as an allocation of regular Special Drawing Rights to the creditor.

(2) **ADDITIONAL FACTORS TO BE STUDIED.**—The study required under paragraph (1) shall include the following:

(A) To the extent the creation and allocation of the limited purpose Special Drawing Rights described in paragraph (1) would require an amendment of the Articles of Agreement of the International Monetary Fund, an assessment of the period of time within which such amendment could be ratified by the member nations, based on discussions with the major members of the Fund.

(B) An assessment of other means for achieving the objectives of principal and interest reduction on official debt of the poorest heavily indebted countries through the use of Special Drawing Rights.

(C) A comparative evaluation of proposals of other members of the International Monetary Fund, the directors and staff of the Fund, and other interested parties.

(D) An analysis of the effect the implementation of the provisions in paragraph (1) would have on bilateral and

multilateral lenders, the international monetary system, and such other provisions of this Act as may be appropriate.

(E) A comparative analysis of the available alternatives identified under subparagraph (B) or (C).

(b) **REPORT REQUIRED.**—Within 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate containing the findings and conclusions of the Secretary pursuant to the study required under subsection (a), together with—

(1) the recommendation of the Secretary as to which, of all the alternatives for providing relief for the poorest of the heavily indebted countries which were assessed in connection with such study, represents the best available option; and

(2) recommendations for such legislation and administrative action as the Secretary determines to be necessary and appropriate to implement such option.

Multilateral
Development
Banks
Procurement
Act of 1988.

22 USC 262a
note.

22 USC 262a.

Subtitle C—Multilateral Development Banks

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the “Multilateral Development Banks Procurement Act of 1988”.

SEC. 3202. MULTILATERAL DEVELOPMENT BANK PROCUREMENT.

(a) **EXECUTIVE DIRECTORS.**—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to attach a high priority to promoting opportunities for exports for goods and services from the United States and, in carrying out this function, to investigate thoroughly any complaints from United States bidders about the awarding of procurement contracts by the multilateral development banks to ensure that all contract procedures and rules of the banks are observed and that United States firms are treated fairly.

(b) **OFFICER OF PROCUREMENT.**—

(1) **ESTABLISHMENT.**—The Secretary of the Treasury shall designate, within the Office of International Affairs in the Department of the Treasury, an officer of multilateral development bank procurement.

(2) **FUNCTION.**—The officer shall act as the liaison between the Department of the Treasury, the Department of Commerce, and the United States Executive Directors’ offices in the multilateral development banks, in carrying out this section. The officer shall cooperate with the Department of Commerce in efforts to improve opportunities for multilateral development bank procurement by United States companies.

(b) **MULTILATERAL DEVELOPMENT BANK DEFINED.**—As used in this section, the term “multilateral development bank” includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

Subtitle D—Export-Import Bank and Tied Aid Credit Amendments

Export-Import
Bank and Tied
Aid Credit
Amendments of
1988.
12 USC 635 note.

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the “Export-Import Bank and Tied Aid Credit Amendments of 1988”.

SEC. 3302. PROVISIONS RELATING TO TIED AID CREDIT.

12 USC 635i-3
note.

(a) FINDINGS.—The Congress finds that—

(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) of the Export-Import Bank Act of 1945 to discourage the use of such predatory financing practices.

(b) EXTENSION OF TIED AID CREDIT FUND.—Subsections (c)(2) and (e)(1) of section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3 (c)(2) and (e)(1)) are each amended by striking out “and 1988” and inserting in lieu thereof “1988, and 1989”.

(c) REPORT.—

(1) IN GENERAL.—On or before December 31, 1988, the President and Chairman of the Export-Import Bank of the United States, in cooperation with other appropriate government agencies, shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a written report identifying and analyzing the tied aid credit practices of other countries and shall make recommendations for dealing with such practices.

(2) CONSULTATION.—In preparing the report described in paragraph (1), the Export-Import Bank shall consult with appropriate international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, and the Development Assistance Committee of the Organization for Economic Cooperation and Development, and with the countries which are party to the Arrangement on Guidelines for Officially Supported Export Credits adopted by the Organization for Economic Cooperation and Development in November 1987.

SEC. 3303. REPORT ON UNITED STATES EXPORTS TO DEVELOPING COUNTRIES.

Within 90 days after the date of the enactment of this Act, the President and Chairman of the Export-Import Bank of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report which contains—

(1) an assessment of the effectiveness of recent program changes in increasing United States exports to developing countries; and

(2) an identification of additional specific policy and program changes which—

(A) would enable the Bank to increase the financing of United States exports to developing countries; and

(B) would encourage greater private sector participation in such financing efforts.

SEC. 3304. AMENDMENTS TO SECTION 2(e) OF THE EXPORT-IMPORT BANK ACT OF 1945.

(a) **TIME FOR DETERMINING SUPPLIES.**—Section 2(e)(1)(A)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)(A)(i)) is amended by striking out “productive capacity is expected to become operative” and inserting in lieu thereof “commodity will first be sold”.

(b) **MAKING COMPARATIVE INJURY DETERMINATIONS.**—Section 2(e)(2) of such Act (12 U.S.C. 635(e)(2)) is amended—

(1) by inserting “short- and long-term” before “injury to United States producers”; and

(2) by inserting “and employment” before “of the same, similar, or competing commodity”.

(c) **SUBSTANTIAL INJURY DEFINED FOR EXPORT-IMPORT BANK DETERMINATIONS.**—Section 2(e) of such Act (12 U.S.C. 635(e)) is amended by adding at the end the following:

“(3) **DEFINITION.**—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.”.

Subtitle E—Export Trading Company Act Amendments

Export Trading
Company Act
Amendments of
1988.
12 USC 1841
note.

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the “Export Trading Company Act Amendments of 1988”.

SEC. 3402. EXPORT TRADING COMPANY ACT AMENDMENTS.

(a) **STANDARDS FOR DETERMINATION OF EXPORT TRADING COMPANY STATUS.**—Section 4(c)(14) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (F) the following new subparagraph:

“(G) **DETERMINATION OF STATUS AS EXPORT TRADING COMPANY.**—

“(i) **TIME PERIOD REQUIREMENTS.**—For purposes of determining whether an export trading company is operated principally for the purposes described in subparagraph (F)(i)—

“(I) the operations of such company during the 2-year period beginning on the date such company commences operations shall not be taken into account in making any such determination; and

“(II) not less than 4 consecutive years of operations of such company (not including any portion of the period referred to in subclause (I)) shall be taken into account in making any such determination.

“(ii) **EXPORT REVENUE REQUIREMENTS.**—A company shall not be treated as operated principally for the purposes described in subparagraph (F)(i) unless—

“(I) the revenues of such company from the export, or facilitating the export, of goods or services produced in the United States exceed the revenues of such company from the import, or facilitating the import, into the United States of goods or services produced outside the United States; and

“(II) at least $\frac{1}{3}$ of such company’s total revenues are revenues from the export, or facilitating the export, of goods or services produced in the United States by persons not affiliated with such company.”.

LEVERAGE.—Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)) is amended by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

“(v) **LEVERAGE.**—The Board may not disapprove any proposed investment solely on the basis of the anticipated or proposed asset-to-equity ratio of the export trading company with respect to which such investment is proposed, unless the anticipated or proposed annual average asset-to-equity ratio is greater than 20-to-1.”.

Securities.

INVENTORY.—Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after paragraph (G) (as added by subsection (a) of this section) the following new subparagraph:

“(H) **INVENTORY.**—

“(i) **NO GENERAL LIMITATION.**—The Board may not prescribe by regulation any maximum dollar amount limitation on the value of goods which an export trading company may maintain in inventory at any time.

“(ii) **SPECIFIC LIMITATION BY ORDER.**—Notwithstanding clause (i), the Board may issue an order establishing a maximum dollar amount limitation on the value of goods which a particular export trading company may maintain in inventory at any time (after such company has been operating for a reasonable period of time) if the Board finds that, under the facts and circumstances, such limitation is necessary to prevent risks that would affect the financial or managerial resources of an investor bank holding company to an extent which would be likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company.”.

Primary Dealers
Act of 1988.

Subtitle F—Primary Dealers

22 USC 5341.

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the “Primary Dealers Act of 1988”.

22 USC 5342.

SEC. 3502. REQUIREMENT OF NATIONAL TREATMENT IN UNDERWRITING GOVERNMENT DEBT INSTRUMENTS.

(a) FINDINGS.—The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions’ participation in Ministry of Finance policy advisory councils.

(b) DESIGNATION OF CERTAIN PERSONS AS PRIMARY DEALERS PROHIBITED.—

(1) GENERAL RULE.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) CERTAIN PRIOR ACQUISITIONS EXCEPTED.—Paragraph (1) shall not apply to the continuation of the prior designation of a company as a primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) **EXCEPTION FOR COUNTRIES HAVING OR NEGOTIATING BILATERAL AGREEMENTS WITH THE UNITED STATES.**—Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 102(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(A)); or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) **PERSON OF A FOREIGN COUNTRY DEFINED.**—For purposes of this section, a person is a “person of a foreign country” if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) **EFFECTIVE DATE.**—This section shall take effect 12 months after the date of the enactment of this Act.

Subtitle G—Financial Reports

Financial
Reports Act of
1988.

SEC. 3601. SHORT TITLE.

22 USC 5351.

This subtitle may be cited as the “Financial Reports Act of 1988”.

SEC. 3602. QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.

22 USC 5352.

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 3603.

SEC. 3603. FAIR TRADE IN FINANCIAL SERVICES.

President of U.S.
22 USC 5353.

(a) **DISCUSSIONS.**—When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and
 (4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) **CONSULTATION BEFORE DISCUSSIONS.**—Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) **RECOMMENDATIONS.**—After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) **CONSTRUCTION OF SECTION.**—Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

Reports.
 22 USC 5354.

SEC. 3604. BANKS LOAN LOSS RESERVES.

The Federal Reserve Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes by March 31, 1989. Such report shall include a review of the treatment of loan loss reserves and the composition of primary capital of banks in other major industrialized countries, and shall include an analysis as to whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

Agricultural
 Competitiveness
 and Trade Act of
 1988.
 7 USC 5201 note.

TITLE IV—AGRICULTURAL TRADE

SEC. 4001. SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

Subtitle A—Findings, Policy, and Purpose

7 USC 5201.

SEC. 4101. FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from \$43,800,000,000 in 1981 to \$27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

- (4) the loss of \$1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 100,000 nonagricultural jobs;
- (5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;
- (6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—
- (A) the addition of new exporting nations;
 - (B) innovations in agricultural technology;
 - (C) increased use of export subsidies designed to lower the price of commodities on the world market;
 - (D) the existence of barriers to agricultural trade;
 - (E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and
 - (F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;
- (7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;
- (8) in order to increase agricultural exports and improve incomes for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);
- (9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries—
- (A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and
 - (B) increase livestock production to enhance the demand for United States feed grains;
- (10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;
- (11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and
- (12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

7 USC 5202.

SEC. 4102. POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

7 USC 5203.

SEC. 4103. PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

Subtitle B—Agricultural Trade Initiatives

PART 1—GENERAL PROVISIONS

7 USC 5211.

SEC. 4201. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

President of U.S.

(a) **CONTENTS.**—The Secretary of Agriculture shall prepare annually, and the President shall submit together with the budget for each fiscal year, a Long-Term Agricultural Trade Strategy Report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for 1-, 5-, and 10-fiscal year periods. In preparing each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213). Each such report shall include—

(1) findings with respect to trends in the comparative position of the United States and other countries in the export of

agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products;

(2) findings with respect to new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products;

(3) findings and recommendations with respect to the movement of United States agricultural commodities and products in nonmarket economies;

(4) as appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States for the period involved, expressed in both physical volume and monetary value;

(5) recommended Federal policy and programs to meet such agricultural trade goals;

(6) recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet such agricultural trade goals;

(7) recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet such agricultural trade goals; and

(8) recommended long-term strategies for growth in agricultural trade and exports—

(A) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(B) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

b) **TREATMENT AS ANNUAL BUDGET SUBMISSION.**—Provisions of each Long-Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

c) **SUCCEEDING REPORTS.**—The Secretary of Agriculture, in each annual Long-Term Agricultural Trade Strategy Report, shall identify any recommendations in such report that might modify the long-term policy contained in any previous report.

d) **RECOMMENDATIONS FOR CHANGES IN LAW.**—The President shall include in each annual budget submission recommendations for such changes in law as are required to meet the long-term goals established in the Report.

President of U.S.

C. 4202. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

7 USC 5212.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

7 USC 5213.

SEC. 4203. JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) **DEVELOPMENT OF PLAN.**—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) **AGREEMENT.**—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

7 USC 5214.

SEC. 4204. REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

Reports.

7 USC 5215.

SEC. 4205. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) **IN GENERAL.**—The Secretary of Agriculture may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) **NOT EMPLOYEES OF THE UNITED STATES.**—Such individuals shall not be regarded as officers or employees of the United States.

7 USC 5216.

SEC. 4206. ESTABLISHMENT OF TRADE ASSISTANCE OFFICE.

(a) **ESTABLISHMENT WITHIN THE FOREIGN AGRICULTURAL SERVICE.**—The Secretary of Agriculture shall establish an office within the Foreign Agricultural Service to carry out the duties described in subsections (b) and (c) under the direction of the Administrator of the Foreign Agricultural Service.

(b) **PRIMARY RESPONSIBILITY.**—The office established under subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

(c) **DUTIES.**—The office established under subsection (a) shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

) REPORT.—

(1) DEADLINE FOR SUBMISSION.—Not later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report described in paragraphs (2) and (3) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONTENTS OF EACH REPORT.—Each such report shall describe—

(A) the type of information that is currently available through the office established by this section; and

(B) the type of assistance provided to persons during the previous fiscal year.

(3) ADDITIONAL CONTENTS FOR FIRST REPORT.—In the first report submitted under this section, the Administrator shall also—

(A) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(B) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(C) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared.

PART 2—FOREIGN AGRICULTURAL SERVICE

4211. PERSONNEL OF THE SERVICE.

7 USC 5231.

(a) INCREASED LEVEL.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service of the Department of Agriculture (hereinafter in this part referred to as the "Service") shall not be less than 900 full-time employees during each of the fiscal years 1989 and 1990.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, upon the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the Senior Service officer assigned to any United States mission abroad.

The number of Service officers holding such diplomatic title at any time may not exceed eight.

7 USC 5232.

SEC. 4212. AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM.

The Administrator of the Service (hereinafter in this part referred to as the "Administrator") shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

7 USC 5233.

SEC. 4213. PERSONNEL RESOURCE TIME.

(a) **IN GENERAL.**—In planning the overall allocation of personnel resource time of agricultural attaches of the Service, the Administrator shall ensure that the maximum quantity practicable of the overall personnel resource time of agricultural attaches of the Service be devoted to activities designed to increase markets for United States agricultural commodities and products.

(b) **REPORTS.**—The Administrator shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describe the allocation of personnel resource time of agricultural attaches during the 1988 and 1989 fiscal years. The report for fiscal year 1988 shall be submitted not later than September 30, 1988, or 30 days after the date of the enactment of this Act, whichever is later. The report for fiscal year 1989 shall be submitted not later than September 30, 1989.

7 USC 5234.

SEC. 4214. COOPERATOR ORGANIZATIONS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

Marketing.

(b) **COMMODITIES FOR COOPERATOR ORGANIZATIONS.**—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) **RELATION TO FUNDS.**—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) **CONFLICTS OF INTEREST.**—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) **EVALUATION.**—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

7 USC 5235.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, \$20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

- (1) expansion of the agricultural attache service;
- (2) expansion of international trade policy activities of the Service;
- (3) enhancement of the Service worldwide market information system;
- (4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and
- (5) developing markets for value-added beef, pork, and poultry products.

Subtitle C—Existing Agricultural Trade Programs

SEC. 4301. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.President of U.S.
7 USC 1466 note.

(a) **CERTIFICATION TO CONGRESS.**—Notwithstanding any other provision of law, if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as “GATT negotiations”) concerning agricultural trade, the President, not later than 45 days after such date—

- (1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and
- (2) shall certify to Congress whether or not significant progress has been made in the negotiations.

Reports.

(b) **MARKETING LOAN.**—

(1) **IMPLEMENTATION.**—Except as provided in paragraph (2), if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i)) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

- (A) the loan level determined for each such crop; or
- (B) the prevailing world market price for each such crop, as determined by the Secretary.

(2) **WAIVER.**—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the marketing loan would harm further negotiations.

(3) **DISCONTINUANCE.**—If, after the implementation of a marketing loan in accordance with paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the marketing loan program implemented in accordance with paragraph (1) would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

(c) **EXPORT ENHANCEMENT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (4), if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least \$2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

(2) **NONDISPLACEMENT.**—Commodities and products made available in accordance with this subsection shall be in addition to, and not in lieu of, other commodities and products made available for the purpose of enhancing the export of United States commodities and products.

(3) **USE OF COMMODITY CREDIT CORPORATION.**—The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(4) **EXCEPTION.**—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT.

(5) **DISCONTINUANCE.**—If, after the implementation of paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program implemented in accordance with paragraph (1) would harm such progress, the President may, not before 60 days after the consultation required under subsection (d) with respect to such certification, instruct the Secretary of Agriculture to suspend the implementation of such program.

(d) **CONSULTATION.**—The President may not make a certification to Congress under this section unless the United States Trade Representative—

(1) consults about the certification with—

(A) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate; and

(2) reports to the President the results of such consultation.

SEC. 4302. PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.Loans.
7 USC 1446 note.

(a) **SUNFLOWER SEEDS.**—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) **COTTONSEED.**—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) **DISCONTINUANCE.**—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

SEC. 4303. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

“(k) In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multiyear basis if the agreements otherwise meet the requirements of this section.”.

President of U.S.

SEC. 4304. TARGETED EXPORT ASSISTANCE.

(a) **LEVEL OF PROGRAM.**—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) in paragraph (1)—

(A) by striking out “1988” and inserting in lieu thereof “1987”; and

(B) by striking out “and” at the end; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

“(2) for the fiscal year 1988, the Secretary shall use under this section not less than \$215,000,000 of the funds of, or commodities owned by, the Corporation, except that the Secretary shall use funds or commodities of the Corporation in excess of \$110,000,000 only to the extent appropriations to reimburse the Corporation for such additional expenditures of funds or distribution of commodities are made available in advance to carry out this section; and

“(3) for each of the fiscal years 1989 and 1990, the Secretary shall use under this section not less than \$325,000,000 of the funds of, or commodities owned by, the Corporation.”.

(b) **COUNTERVAILING DUTY ACTION.**—Section 1124(b) of such Act is amended—

(1) in paragraph (1), by striking out “Funds” and inserting in lieu thereof “Except as provided in paragraph (3), funds”; and

(2) by adding at the end thereof the following new paragraph:

“(3)(A) Funds or commodities made available for use under this section may be used by the Secretary to assist organizations consisting of producers or processors of United States agricultural commodities in amounts necessary to compensate the organizations for reasonable expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.). In no event may such assistance exceed \$500,000 for the defense of any one countervailing duty action.

“(B) If the Secretary declines to make funds or commodities available under this paragraph, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for declining to make the funds or commodities available.”.

7 USC 1736t
note.

SEC. 4305. EXPORT CREDIT GUARANTEE PROGRAM.

It is the sense of Congress that, to the extent that the Commodity Credit Corporation makes a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation should be made on a country-only basis and not on a commodity basis or a commodity and country basis.

SEC. 4306. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

(a) **PRIORITIES.**—Section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

“(2) may consider for participation all interested United States exporters, processors, and users and interested foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products;”.

(b) **LEVEL OF FUNDING.**—Section 1127(i) of such Act is amended—

(1) by striking out “1988” and inserting in lieu thereof “1990”; and

(2) by striking out “\$1,500,000,000” and inserting in lieu thereof “\$2,500,000,000”.

SEC. 4307. AGRICULTURAL ATTACHE REPORTS.

Subsection (b) of section 1132 of the Food Security Act of 1985 (7 U.S.C. 1736x(b)) is amended to read as follows:

“(b) The Secretary shall—

“(1) annually compile the information contained in such reports;

“(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

“(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

“(4) make the compilation available to Congress, the trade assistance office created under section 4602 of the Agricultural Competitiveness and Trade Act of 1988, the agricultural policy advisory committee, and other interested parties.”.

SEC. 4308. DAIRY EXPORT INCENTIVE PROGRAM.

Paragraphs (2) through (3) of section 153(d) of the Food Security Act of 1985 (15 U.S.C. 713a-14(d)) are amended to read as follows:

“(2) If payments in commodities are authorized, such payments shall be made through the issuance of generic certificates redeemable in commodities.

“(3) If generic certificates issued in accordance with the program provided for by this section are exchanged for dairy products owned by the Commodity Credit Corporation, the regulations issued by the Secretary shall ensure that—

“(A) such dairy products, or an equal quantity of other dairy products, will be sold for export by the entity; and

“(B) any such export sales by the entity—

“(i) will be in addition to, and not in place of, export sales of dairy products that the entity would otherwise make under the program or in the absence of the program; and

“(ii) to the extent practicable, will not displace commercial export sales of United States dairy products by other exporters.”.

SEC. 4309. BARTER OF AGRICULTURAL COMMODITIES.

7 USC 1431 note.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310. MINIMUM LEVEL OF FOOD ASSISTANCE.

7 USC 1691 note.

(a) **ANNUAL MINIMUM.**—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) **DEFINITION.**—For purposes of this section, the term “foreign economic assistance” includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the

Asian Development Bank, the African Development Bank, or any other multilateral development bank.

7 USC 1691 note. SEC. 4311. FOOD AID AND MARKET DEVELOPMENT.

(a) **POLICY STATEMENT.**—It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products.

President of U.S. (b) **REQUIREMENT.**—The President (or, as appropriate, the Secretary of Agriculture) shall encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases.

Subtitle D—Wood and Wood Products

SEC. 4401. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER PUBLIC LAW 480.

Section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)(1)) is amended by inserting “(including wood and processed wood products of the United States)” after “agricultural commodities” the first place it appears.

SEC. 4402. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER THE SHORT-TERM AND INTERMEDIATE-TERM EXPORT CREDIT GUARANTEE PROGRAMS.

(a) **SHORT-TERM EXPORT CREDIT GUARANTEES.**—Section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) is amended—

(1) in subsection (b), by inserting “, including wood and processed wood products” after “agricultural commodities and the products thereof”; and

(2) by adding at the end thereof the following:

“(d) For the purpose of this section, the term ‘wood and processed wood products’ includes but is not limited to logs, lumber (boards, timber, millwork, molding, flooring, and siding), veneer, panel products (plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.”.

(b) **INTERMEDIATE-TERM EXPORT CREDIT.**—Section 4(b)(1) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(1)) is amended by adding at the end thereof the following: “For the purpose of this paragraph, the term ‘agricultural commodities’ includes wood and processed wood products, as defined in section 1125(d) of the Food Security Act of 1985 (7 U.S.C. 1736t(d)).”.

SEC. 4403. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end thereof the following:

16 USC 2112. “SEC. 15. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

“(a) **FINDINGS AND PURPOSES.**—

“(1) **FINDINGS.**—Congress finds that—

“(A) the health and vitality of the domestic forest products industry is important to the well-being of the economy of the United States;

“(B) the domestic forest products industry has a significant potential for expansion in both domestic and foreign markets;

“(C) many small-sized to medium-sized forest products firms lack the tools that would enable them to meet the increasing challenge of foreign competition in domestic and foreign markets; and

“(D) a new cooperative forest products marketing program will improve the competitiveness of the United States forest products industry.

“(2) PURPOSES.—The purposes of this section are to—

“(A) provide direct technical assistance to the United States forest products industry to improve marketing activities;

“(B) provide cost-share grants to States to support State and regional forest products marketing programs; and

“(C) target assistance to small-sized and medium-sized producers of solid wood and processed wood products, including pulp.

Grants.
State and local
governments.

“(b) PROGRAM AUTHORITY.—

“(1) IN GENERAL.—The Secretary shall establish a cooperative national forest products marketing program under this Act that provides—

Grants.
State and local
governments.

“(A) technical assistance to States, landowners, and small-sized to medium-sized forest products firms on ways to improve domestic and foreign markets for forest products; and

“(B) grants of financial assistance with matching requirements to the States to assist in State and regional forest products marketing efforts targeted to aid small-sized to medium-sized forest products firms and private, nonindustrial forest landowners.

“(2) INTERSTATE COOPERATIVE AGREEMENTS.—Grant agreements shall encourage the establishment of interstate cooperative agreements by the States for the purpose of promoting the development of domestic and foreign markets for forest products.

“(c) LIMITATIONS.—

“(1) COOPERATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary shall cooperate with Federal departments and agencies to avoid the duplication of efforts and to increase program efficiency.

“(2) DOMESTIC PROGRAM.—The program authorized under this section shall be carried out within the United States and not be extended to Department of Agriculture activities in foreign countries.

“(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of the fiscal years 1988 through 1991, to carry out this section.

“(e) PROGRAM REPORT.—The Secretary shall report to Congress annually on the activities taken under the marketing program established under this section. A final report including recommendations for program changes and the need and desirability of

the reauthorization of this authority, and required levels of funding, shall be submitted to Congress not later than September 30, 1990.”.

7 USC 1736t
note.

SEC. 4404. USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

Subtitle E—Studies and Reports

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502. IMPORT INVENTORY.

7 USC 626.

(a) **COMPILATION AND REPORT ON IMPORTS.**—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) **COMPILATION AND REPORT ON CONSUMPTION.**—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

Public information.

(c) **ISSUING OF DATA.**—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) **STUDY.**—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) **STUDY.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) **REPORT.**—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

Marketing.

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

Animals.

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

21 USC 1401
note.**SEC. 4506. IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.**

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

Pests and
pesticides.
Drugs and drug
abuse.

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

Pests and
pesticides.
Drugs and drug
abuse.

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and

Research and development.

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

REVISION.—Not later than November 15, 1989, the Secretary of culture shall revise, as necessary, the report prepared under section (a) and submit the revision to Congress.

Reports.

DEFINITION.—As used in this section, the term “covered products” means meat, poultry products, eggs, and egg products.

1507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

Dairy products.

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

REQUIREMENTS.—In conducting the study required under section (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

Dairy products.

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Forestry, and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) **STUDY.**—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry, and ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) **STUDY.**—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate on imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign trade barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) **REPORT.**—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) **REVIEW.**—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

Subtitle F—Miscellaneous Agricultural Provisions

C. 4601. ALLOCATION OF CERTAIN MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), enacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following: (K)(i) Notwithstanding any other provision of law, milk produced

dairies—
“(I) owned or controlled by foreign persons; and

“(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1986;

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this Act. For the purposes of this subparagraph, the term ‘foreign person’ has the meaning given such term under section 9(3) of the Agricultural Foreign Investment Disclosure Act of 1978 (U.S.C. 3508(3)).

“(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph. Regulations.

“(iii) This subparagraph shall not apply with respect to any dairy that began operation before May 6, 1986.”.

C. 4602. PAID ADVERTISING FOR FLORIDA-GROWN STRAWBERRIES UNDER MARKETNG ORDERS.

The first proviso of section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out “tomatoes” and inserting in lieu thereof “tomatoes, or Florida-grown strawberries.”.

C. 4603. APPLICATION OF MARKETNG ORDERS TO IMPORTS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1), enacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting “(a)” at the beginning of the first sentence; and

(2) by adding at the end thereof the following new subsection:

“(b)(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements shall be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

“(A) to effectuate the purposes of this Act; and

“(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

“(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

“(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing

order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary):

“(B) if the importation into the United States of such commodity did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

“(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

“(3) An additional period established by the Secretary in accordance with this subsection shall be—

“(A) announced not later than 30 days before the date such additional period is to be in effect; and

“(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

“(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.”.

SEC. 4604. RECIPROCAL MEAT INSPECTION REQUIREMENT.

(a) IN GENERAL.—Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following new subsection:

“(h)(1) As used in this subsection:

“(A) The term ‘meat articles’ means carcasses, meat and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, that are capable of use as human food.

“(B) The term ‘standards’ means inspection, building construction, sanitary, quality, species verification, residue, and other standards that are applicable to meat articles.

Safety.

“(2) On request of the Committee on Agriculture or the Committee on Ways and Means of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry or the Committee on Finance of the Senate, or at the initiative of the Secretary, the Secretary shall, as soon as practicable, determine whether a particular foreign country applies standards for the importation of meat articles from the United States that are not related to public health concerns about end-product quality that can be substantiated by reliable analytical methods.

“(3) If the Secretary determines that a foreign country applies standards described in paragraph (2)—

“(A) the Secretary shall consult with the United States Trade Representative; and

“(B) within 30 days after the determination of the Secretary under paragraph (2), the Secretary and the United States Trade Representative shall recommend to the President whether action should be taken under paragraph (4).

President of U.S.

“(4) Within 30 days after receiving a recommendation for action under paragraph (3), the President shall, if and for such time as the President considers appropriate, prohibit imports into the United

tes of any meat articles produced in such foreign country unless
s determined that the meat articles produced in that country
et the standards applicable to meat articles in commerce within
United States.

(5) The action authorized under paragraph (4) may be used
ead of, or in addition to, any other action taken under any other

b) REPORTS.—Section 20(e) of such Act is amended—

21 USC 620.

(1) by striking out “and” at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and
inserting in lieu thereof “; and”; and

(3) by adding at the end thereof the following new paragraph:

“(6) the name of each foreign country that applies standards
for the importation of meat articles from the United States that
are described in subsection (h)(2).”

4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

is the sense of Congress that—

(1) land grant colleges and universities (as defined in section
1404(10) of the National Agricultural Research, Extension, and
Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage
the study and career objective of international marketing of
agricultural commodities and products;

(2) because marketing complements production, international
agricultural marketing specialists are needed in a globally
competitive world; and

(3) enhanced foreign marketing of United States agricultural
commodities and products will help relieve stress in the rural
economy.

4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European
Community has severely restricted the export of United
States eggs and egg products to European Community
member countries;

(2) export subsidies of the European Community have caused
displacement of United States egg exports in international mar-
kets; and

(3) the Secretary of Agriculture is in the process of certifying
the Netherland's inspection procedures for egg products for the
purpose of importation into the United States of egg products of
the Netherlands.

b) SENSE OF CONGRESS.—It is the sense of Congress that the
ited States Trade Representative should enter into negotiations
h the European Community concerning—

(1) duties, tariffs, and other means used by the European
Community to limit the access of United States eggs and egg
products to European Community markets; and

(2) European Community export subsidies that have had the
effect of excluding United States eggs and egg products from
other world markets.

4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was \$7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) **FINDINGS.**—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) the Government of Japan should immediately take action to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on

agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609. SENSE OF CONGRESS RELATING TO SECTION 22.

7 USC 624 note.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 and 1445-2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

SEC. 4610. TECHNICAL CORRECTIONS TO THE AGRICULTURAL AID AND TRADE MISSION PORTION OF PUBLIC LAW 100-202.

(a) **SHORT TITLE FOR AGRICULTURAL AID AND TRADE MISSIONS ACT.**—That portion of the joint resolution entitled “Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes” approved December 22, 1987, under the heading “Agricultural Aid and Trade Missions Act” is amended by adding at the end the following:

“SEC. 16. SHORT TITLE.

“Section 1 through this section under the heading ‘Agricultural Aid and Trade Missions Act’ may be cited as the ‘Agricultural Aid and Trade Missions Act’.”

(b) **CORRECTION OF INTERNAL REFERENCES.**—Sections 1 through 7 of that portion of such joint resolution are each amended by striking out “chapter” each place it appears and inserting “Act” in lieu thereof.

(c) **ELIMINATION OF SUPERFLUOUS CATCHLINE.**—That portion of such joint resolution is amended by striking out “Subtitle E—Public Law 480 and Related Provisions”.

(d) **CORRECTION OF CROSS REFERENCE.**—Section 13 of that portion of such joint resolution is amended by striking out “section 655 of this Act” and inserting “section 12” in lieu thereof.

Agricultural Aid
and Trade
Missions Act.
7 USC 1691 note.

7 USC 1736bb,
1736bb-3—
1736bb-6.

101 Stat.
1329-447.

7 USC 1726.

Subtitle G—Pesticide Monitoring Improvements

Pesticide
Monitoring
Improvements
Act of 1988.

SEC. 4701. SHORT TITLE.

This subtitle may be cited as the “Pesticide Monitoring Improvements Act of 1988”.

21 USC 1401
note.

21 USC 1401.

SEC. 4702. PESTICIDE MONITORING AND ENFORCEMENT INFORMATION.**(a) DATA MANAGEMENT SYSTEMS.—**

(1) Not later than 480 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall place in effect computerized data management systems for the Food and Drug Administration under which the Administration will—

(A) record, summarize, and evaluate the results of its program for monitoring food products for pesticide residues,

(B) identify gaps in its pesticide monitoring program in the monitoring of (i) pesticides, (ii) food products, and (iii) food from specific countries and from domestic sources,

(C) detect trends in the presence of pesticide residues in food products and identify public health problems emerging from the occurrence of pesticide residues in food products,

(D) focus its testing resources for monitoring pesticide residues in food on detecting those residues which pose a public health concern,

(E) prepare summaries of the information listed in subsection (b), and

(F) provide information to assist the Environmental Protection Agency in carrying out its responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act.

(2) As soon as practicable, the Secretary of Health and Human Services shall develop a means to enable the computerized data management systems placed into effect under paragraph (1) to make the summary described in subsection (c).

(3)(A) Paragraph (1) does not limit the authority of the Food and Drug Administration to—

(i) use the computerized data management systems placed in effect under paragraph (1), or

(ii) develop additional data management systems, to facilitate the regulation of any substance or product covered under the requirements of the Federal Food, Drug, and Cosmetic Act.

(B) In placing into effect the computerized data management systems under paragraph (1) and in carrying out paragraph (2), the Secretary shall comply with applicable regulations governing computer system design and procurement.

(b) **INFORMATION.**—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to prepare a summary of—

(1) information on—

(A) the types of imported and domestically produced food products analyzed for compliance with the requirements of the Federal Food, Drug, and Cosmetic Act regarding the presence of pesticide residues,

(B) the number of samples of each such food product analyzed for such compliance by country of origin,

(C) the pesticide residues which may be detected using the testing methods employed,

(D) the pesticide residues in such food detected and the levels detected,

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(E) the compliance status of each sample of such food tested and the violation rate for each country-product combination, and

(F) the action taken with respect to each sample of such food found to be in violation of the Federal Food, Drug, and Cosmetic Act and its ultimate disposition, and

(2) information on—

(A) the country of origin of each imported food product referred to in paragraph (1)(A), and

(B) the United States district of entry for each such imported food product.

(c) **VOLUME DATA.**—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to summarize the volume of each type of food product subject to the requirements of the Federal Food, Drug, and Cosmetic Act which is imported into the United States and which has an entry value which exceeds an amount established by the Secretary of Health and Human Services. The summary shall be made by country of origin and district of entry. Information with respect to volumes of food products to be included in the summary shall, to the extent feasible, be obtained from data bases of other Federal agencies.

(d) **COMPILATION.**—Not later than 90 days after the expiration of 1 year after the data management systems are placed into effect under subsection (a) and annually thereafter, the Secretary of Health and Human Services shall compile a summary of the information described in subsection (b) with respect to the previous year. When the Food and Drug Administration is able to make summaries under subsection (c), the Secretary shall include in the compilation under the preceding sentence a compilation of the information described in subsection (c). Compilations under this subsection shall be made available to Federal and State agencies and other interested persons.

SEC. 4703. FOREIGN PESTICIDE INFORMATION.

21 USC 1402.

(a) **COOPERATIVE AGREEMENTS.**—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) **INFORMATION ACTIVITIES.**—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insuffi-

cient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) **COORDINATION WITH OTHER AGENCIES.**—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

State and local
governments.

21 USC 1403.

SEC. 4704. PESTICIDE ANALYTICAL METHODS.

The Secretary of Health and Human Services shall, in consultation with the Administrator of the Environmental Protection Agency—

(1) develop a detailed long-range plan and timetable for research that is necessary for the development of and validation of—

(A) new and improved analytical methods capable of detecting at one time the presence of multiple pesticide residues in food, and

(B) rapid pesticide analytical methods, and

(2) conduct a review to determine whether the use of rapid pesticide analytical methods by the Secretary would enable the Secretary to improve the cost-effectiveness of monitoring and enforcement activities under the Federal Food, Drug, and Cosmetic Act, including increasing the number of pesticide residues which can be detected and the number of tests for pesticide residues which can be conducted in a cost-effective manner.

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The Secretary shall report the plan developed under paragraph (1), the resources necessary to carry out the research described in such paragraph, recommendations for the implementation of such research, and the result of the review conducted under paragraph (2) not later than the expiration of 240 days after the date of the enactment of this Act to the Committee on Agriculture, Nutrition,

and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Foreign Corrupt Practices Act Amendments of 1988.
15 USC 78a note.

C. 5001. SHORT TITLE.

This part may be cited as the “Foreign Corrupt Practices Act Amendments of 1988”.

C. 5002. PENALTIES FOR VIOLATIONS OF ACCOUNTING STANDARDS.

Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)) is amended by adding at the end thereof the following:

“(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

“(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

“(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or more of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer’s circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer’s ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

“(7) For the purpose of paragraph (2) of this subsection, the terms ‘reasonable assurances’ and ‘reasonable detail’ mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.”.

C. 5003. FOREIGN CORRUPT PRACTICES ACT AMENDMENTS.

(a) **PROHIBITED TRADE PRACTICES BY ISSUERS.**—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended to read as follows:

“PROHIBITED FOREIGN TRADE PRACTICES BY ISSUERS

SEC. 30A. (a) PROHIBITION.—It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of

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this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

“(1) any foreign official for purposes of—

“(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

“(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

“(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

“(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

“(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

“(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

“(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

“(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

“(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection

(a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

“(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

(d) **GUIDELINES BY THE ATTORNEY GENERAL.**—Not later than one year after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and, based on such determination and to the extent necessary and appropriate, issue—

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which issuers may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

(e) **OPINIONS OF THE ATTORNEY GENERAL.**—(1) The Attorney General, after consultation with appropriate departments and agencies in the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by issuers concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in

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a request by an issuer and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by an issuer under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the issuer, be made publicly available, regardless of whether the Attorney General responds to such a request or the issuer withdraws such request before receiving a response.

"(3) Any issuer who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(f) **DEFINITIONS.**—For purposes of this section:

"(1) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(2)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

“(3)(A) The term ‘routine governmental action’ means only an action which is ordinarily and commonly performed by a foreign official in—

“(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

“(ii) processing governmental papers, such as visas and work orders;

“(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

“(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

“(v) actions of a similar nature.

“(B) The term ‘routine governmental action’ does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.”

(b) VIOLATIONS.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended to read as follows:

“(c)(1)(A) Any issuer that violates section 30A(a) shall be fined not more than \$2,000,000.

“(B) Any issuer that violates section 30A(a) shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Commission.

“(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 30A(a) shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

“(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 30A(a), shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

“(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 30A(a) shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Commission.

“(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.”

(c) PROHIBITED TRADE PRACTICES BY DOMESTIC CONCERNS.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended to read as follows:

“PROHIBITED FOREIGN TRADE PRACTICES BY DOMESTIC CONCERNS

“SEC. 104. (a) PROHIBITION.—It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails

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or any means or instrumentality of interstate commerce curruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

“(1) any foreign official for purposes of—

“(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

“(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

“(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

“(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

“(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

“(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

“(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

“(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

“(b) **EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.**—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

“(c) **AFFIRMATIVE DEFENSES.**—It shall be an affirmative defense to actions under subsection (a) that—

“(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

(1) **INJUNCTIVE RELIEF.**—(1) When it appears to the Attorney General that any domestic concern to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, about to engage, in any act or practice constituting a violation of section (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper finding, a permanent injunction or a temporary restraining order may be granted without bond.

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(2) For the purpose of any civil investigation which, in the discretion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

(3) In case of contumacy by, or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this section.

(4) **GUIDELINES BY THE ATTORNEY GENERAL.**—Not later than 6 months after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Securities and Exchange Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after giving the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

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"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which domestic concerns may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(f) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by domestic concerns concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by a domestic concern and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

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Classified
information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by a domestic concern under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the domestic concern, be made publicly available, regardless of whether the Attorney General responds to such a request or the domestic concern withdraws such request before receiving a response.

“(3) Any domestic concern who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

“(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice’s present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice’s present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

“(g) PENALTIES.—(1)(A) Any domestic concern that violates subsection (a) shall be fined not more than \$2,000,000.

“(B) Any domestic concern that violates subsection (a) shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

“(2)(A) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

“(B) Any employee or agent of a domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully violates subsection (a), shall be fined not more than \$100,000, or imprisoned not more than 5 years, or both.

“(C) Any officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) shall be subject to a civil penalty of not more than \$10,000 imposed in an action brought by the Attorney General.

“(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a domestic concern, such fine may not be paid, directly or indirectly, by such domestic concern.

“(h) DEFINITIONS.—For purposes of this section:

“(1) The term ‘domestic concern’ means—

“(A) any individual who is a citizen, national, or resident of the United States; and

“(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

“(2) The term ‘foreign official’ means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

“(3)(A) A person’s state of mind is ‘knowing’ with respect to conduct, a circumstance, or a result if—

“(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

“(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

“(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

“(4)(A) For purposes of paragraph (1), the term ‘routine governmental action’ means only an action which is ordinarily and commonly performed by a foreign official in—

“(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

“(ii) processing governmental papers, such as visas and work orders;

“(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

“(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

“(v) actions of a similar nature.

“(B) The term ‘routine governmental action’ does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

“(5) The term ‘interstate commerce’ means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

“(A) a telephone or other interstate means of communication, or

“(B) any other interstate instrumentality.”

(d) INTERNATIONAL AGREEMENT.—

(1) **NEGOTIATIONS.**—It is the sense of the Congress that the President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Development, to govern persons from those countries concerning acts prohibited with respect to issuers and domestic concerns by the amendments made by this section. Such international agreement should include a process by which problems and conflicts associated with such acts could be resolved.

(2) **REPORT TO CONGRESS.**—(A) Within 1 year after the date of the enactment of this Act, the President shall submit to the Congress a report on—

(i) the progress of the negotiations referred to in paragraph (1),

(ii) those steps which the executive branch and the Congress should consider taking in the event that these

negotiations do not successfully eliminate any competitive disadvantage of United States businesses that results when persons from other countries commit the acts described in paragraph (1); and

(iii) possible actions that could be taken to promote cooperation by other countries in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

(B) The President shall include in the report submitted under subparagraph (A)—

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(i) any legislative recommendations necessary to give the President the authority to take appropriate action to carry out clauses (ii) and (iii) of subparagraph (A);

(ii) an analysis of the potential effect on the interests of the United States, including United States national security, when persons from other countries commit the acts described in paragraph (1); and

(iii) an assessment of the current and future role of private initiatives in curtailing such acts.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 5021. AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2158 et seq.) is amended by adding at the end thereof the following:

“AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

“SEC. 721. (a) INVESTIGATIONS.—The President or the President’s designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President’s designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination.

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national
security.
50 USC app.
2170.

“(b) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President’s designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

“(c) ACTION BY THE PRESIDENT.—Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in

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the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.

“(d) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by subsection (c) only if the President finds that—

“(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

“(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), do not in the President’s judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The provisions of subsection (d) of this section shall not be subject to judicial review.

“(e) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President’s designee may, taking into account the requirements of national security, consider among other factors—

“(1) domestic production needed for projected national defense requirements,

“(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services, and

“(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

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“(f) REPORT TO THE CONGRESS.—If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).

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“(g) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

“(h) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.”

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

SEC. 5101. SHORT TITLE.

This part may be cited as the “Technology Competitiveness Act”.

Subpart A—National Institute of Standards and Technology

SEC. 5111. FINDINGS AND PURPOSES.

Section 1 of the Act of March 3, 1901 (15 U.S.C. 271) is amended to read as follows:

“FINDINGS AND PURPOSES

“SECTION 1. (a) The Congress finds and declares the following:

“(1) The future well-being of the United States economy depends on a strong manufacturing base and requires continual improvements in manufacturing technology, quality control, and techniques for ensuring product reliability and cost-effectiveness.

“(2) Precise measurements, calibrations, and standards help United States industry and manufacturing concerns compete strongly in world markets.

“(3) Improvements in manufacturing and product technology depend on fundamental scientific and engineering research to develop (A) the precise and accurate measurement methods and measurement standards needed to improve quality and reliability, and (B) new technological processes by which such improved methods may be used in practice to improve manufacturing and to assist industry to transfer important laboratory discoveries into commercial products.

“(4) Scientific progress, public safety, and product compatibility and standardization also depend on the development of precise measurement methods, standards, and related basic technologies.

“(5) The National Bureau of Standards since its establishment has served as the Federal focal point in developing basic measurement standards and related technologies, has taken a lead role in stimulating cooperative work among private industrial organizations in efforts to surmount technological hurdles, and otherwise has been responsible for assisting in the improvement of industrial technology.

“(6) The Federal Government should maintain a national science, engineering, and technology laboratory which provides measurement methods, standards, and associated technologies and which aids United States companies in using new technologies to improve products and manufacturing processes.

“(7) Such national laboratory also should serve industry, trade associations, State technology programs, labor organizations, professional societies, and educational institutions by disseminating information on new basic technologies including automated manufacturing processes.

“(b) It is the purpose of this Act—

“(1) to rename the National Bureau of Standards as the National Institute of Standards and Technology and to modernize and restructure that agency to augment its unique ability to enhance the competitiveness of American industry while maintaining its traditional function as lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin United States commerce, technological progress, improved product reliability and manufacturing processes, and public safety;

"(2) to assist private sector initiatives to capitalize on advanced technology;

"(3) to advance, through cooperative efforts among industries, universities, and government laboratories, promising research and development projects, which can be optimized by the private sector for commercial and industrial applications; and

"(4) to promote shared risks, accelerated development, and pooling of skills which will be necessary to strengthen America's manufacturing industries."

SEC. 5112. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES.

(a) **ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES OF THE INSTITUTE.**—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272) is amended to read as follows:

"ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

"SEC. 2. (a) There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this Act referred to as the 'Institute').

"(b) The Secretary of Commerce (hereafter in this Act referred to as the 'Secretary') acting through the Director of the Institute (hereafter in this Act referred to as the 'Director') and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

"(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

"(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government;

"(3) to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

"(4) to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

"(5) to assist industry in the development of measurements, measurement methods, and basic measurement technology;

"(6) to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science,

engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

“(7) to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

“(8) to assure the compatibility of United States national measurement standards with those of other nations;

“(9) to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

“(10) to advise government and industry on scientific and technical problems; and

“(11) to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs.

“(c) In carrying out the functions specified in subsection (b), the Secretary, acting through the Director and, if appropriate, through other appropriate officials, may, among other things—

“(1) construct physical standards;

“(2) test, calibrate, and certify standards and standard measuring apparatus;

“(3) study and improve instruments, measurement methods, and industrial process control and quality assurance techniques;

“(4) cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;

“(5) cooperate with foreign scientific and technical institutions to understand technological developments in other countries better;

“(6) prepare, certify, and sell standard reference materials for use in ensuring the accuracy of chemical analyses and measurements of physical and other properties of materials;

“(7) in furtherance of the purposes of this Act, accept research associates, cash donations, and donated equipment from industry, and also engage with industry in research to develop new basic and generic technologies for traditional and new products and for improved production and manufacturing;

“(8) study and develop fundamental scientific understanding and improved measurement, analysis, synthesis, processing, and fabrication methods for chemical substances and compounds, ferrous and nonferrous metals, and all traditional and advanced materials, including processes of degradation;

“(9) investigate ionizing and nonionizing radiation and radioactive substances, their uses, and ways to protect people, structures, and equipment from their harmful effects;

“(10) determine the atomic and molecular structure of matter, through analysis of spectra and other methods, to provide a basis for predicting chemical and physical structures and reactions and for designing new materials and chemical substances, including biologically active macromolecules;

“(11) perform research on electromagnetic waves, including optical waves, and on properties and performance of electrical, electronic, and electromagnetic devices and systems and their essential materials, develop and maintain related standards,

and disseminate standard signals through broadcast and other means;

"(12) develop and test standard interfaces, communication protocols, and data structures for computer and related telecommunications systems;

"(13) study computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes;

"(14) perform research to develop standards and test methods to advance the effective use of computers and related systems and to protect the information stored, processed, and transmitted by such systems and to provide advice in support of policies affecting Federal computer and related telecommunications systems;

"(15) determine properties of building materials and structural elements, and encourage their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

"(16) undertake such research in engineering, pure and applied mathematics, statistics, computer science, materials science, and the physical sciences as may be necessary to carry out and support the functions specified in this section;

"(17) compile, evaluate, publish, and otherwise disseminate general, specific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere;

"(18) collect, create, analyze, and maintain specimens of scientific value;

"(19) operate national user facilities;

"(20) evaluate promising inventions and other novel technical concepts submitted by inventors and small companies and work with other Federal agencies, States, and localities to provide appropriate technical assistance and support for those inventions which are found in the evaluation process to have commercial promise;

"(21) demonstrate the results of the Institute's activities by exhibits or other methods of technology transfer, including the use of scientific or technical personnel of the Institute for part-time or intermittent teaching and training activities at educational institutions of higher learning as part of and incidental to their official duties; and

"(22) undertake such other activities similar to those specified in this subsection as the Director determines appropriate."

15 USC 1582.

(b) OTHER FUNCTIONS OF SECRETARY.—The Secretary of Commerce is authorized to—

(1) conduct research on all of the telecommunications sciences, including wave propagation and reception, the conditions which affect electromagnetic wave propagation and reception, electromagnetic noise and interference, radio system characteristics, operating techniques affecting the use of the electromagnetic spectrum, and methods for improving the use of the electromagnetic spectrum for telecommunications purposes;

(2) prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in such conditions;

(3) investigate conditions which affect the transmission of radio waves from their source to a receiver and the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(4) conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(5) investigate nonionizing electromagnetic radiation and its uses, as well as methods and procedures for measuring and assessing electromagnetic environments, for the purpose of developing and coordinating policies and procedures affecting Federal Government use of the electromagnetic spectrum for telecommunications purposes;

(6) compile, evaluate, publish, and otherwise disseminate general scientific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere; and

(7) undertake such other activities similar to those specified in this subsection as the Secretary of Commerce determines appropriate.

(c) **DIRECTOR OF INSTITUTE.**—(1) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274) is amended to read as follows:

“Sec. 5. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have the general supervision of the Institute, its equipment, and the exercise of its functions. The Director shall make an annual report to the Secretary of Commerce. The Director may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the exercise of the functions of the Institute. The Director shall be compensated at the rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Until such time as the Director assumes office under this section, the most recent Director of the National Bureau of Standards shall serve as Director.”

(2) Section 5315 of title 5, United States Code, is amended by striking “National Bureau of Standards” and inserting in lieu hereof “National Institute of Standards and Technology”.

(d) **ORGANIZATION PLAN.**—(1) At least 60 days before its effective date and within 120 days after the date of the enactment of this Act, an initial organization plan for the National Institute of Standards and Technology (hereafter in this part referred to as the “Institute”) shall be submitted by the Director of the Institute (hereafter in this part referred to as the “Director”) after consultation with the Visiting Committee on Advanced Technology, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such plan shall—

(A) establish the major operating units of the Institute;

(B) assign each of the activities listed in section 2(c) of the Act of March 3, 1901, and all other functions and activities of the

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Reports.

15 USC 272 note.

Institute, to at least one of the major operating units established under subparagraph (A);

(C) provide details of a 2-year program for the Institute, including the Advanced Technology Program;

(D) provide details regarding how the Institute will expand and fund the Inventions program in accordance with section 27 of the Act of March 3, 1901; and

(E) make no changes in the Center for Building Technology or the Center for Fire Research.

(2) The Director may revise the organization plan. Any revision of the organization plan submitted under paragraph (1) shall be submitted to the appropriate committees of the House of Representatives and the Senate at least 60 days before the effective date of such revision.

(3) Until the effective date of the organization plan, the major operating units of the Institute shall be the major operating units of the National Bureau of Standards that were in existence on the date of the enactment of this Act and the Advanced Technology Program.

SEC. 5113. REPEAL OF PROVISIONS.

The second paragraph of the material relating to the Bureau of Standards in the first section of the Act of July 16, 1914 (15 U.S.C. 280), the last paragraph of the material relating to Contingent and Miscellaneous Expenses in the first section of the Act of March 4, 1913 (15 U.S.C. 281), and the first section of the Act of May 14, 1930 (15 U.S.C. 282) are repealed.

SEC. 5114. REPORTS TO CONGRESS; STUDIES BY THE NATIONAL ACADEMIES OF ENGINEERING AND SCIENCES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating section 23 as section 31; and

(2) by adding after section 22 the following new sections:

“REPORTS TO CONGRESS

“SEC. 23. (a) The Director shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all of the activities of the Institute.

“(b) The Director shall justify in writing all changes in policies regarding fees for standard reference materials and calibration services occurring after June 30, 1987, including a description of the anticipated impact of any proposed changes on demand for and anticipated revenues from the materials and services. Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on changes in the costs of raw materials or of producing and delivering standard reference materials or calibration services.

“STUDIES BY THE NATIONAL RESEARCH COUNCIL

“SEC. 24. The Director may periodically contract with the National Research Council for advice and studies to assist the Institute

15 USC 271 note.

15 USC 278i.

Contracts.
15 USC 278j.

to serve United States industry and science. The subjects of such advice and studies may include—

“(1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;

“(2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and

“(3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.”.

SEC. 5115. TECHNICAL AMENDMENTS.

(a) **AMENDMENTS TO ORGANIC ACT.**—(1) Except as provided in paragraph (2), the Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended by striking “National Bureau of Standards”, “Bureau” and “bureau” wherever they appear and inserting in lieu thereof “Institute”.

(2) Section 31 of such Act, as so redesignated by section 5114(1) of this part, is amended by striking “National Bureau of Standards” and inserting in lieu thereof “National Institute of Standards and Technology”.

(b) **AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.**—(1) Section 8(b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122 of this part, is amended by striking “Director” and inserting in lieu thereof “Assistant Secretary”.

15 USC 3706.

(2) Sections 11(e) and 17(d) and (e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, are amended—

15 USC 3710,
3711a.

(A) by striking “National Bureau of Standards” wherever it appears and inserting in lieu thereof “National Institute of Standards and Technology”; and

(B) by striking “Bureau” wherever it appears and inserting in lieu thereof “Institute”.

(c) **AMENDMENTS TO OTHER LAWS.**—References in any other Federal law to the National Bureau of Standards shall be deemed to refer to the National Institute of Standards and Technology.

15 USC 271 note.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

SEC. 5121. TECHNOLOGY EXTENSION ACTIVITIES.

(a) **TECHNOLOGY CENTERS AND TECHNICAL ASSISTANCE.**—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 24 the following new sections:

“REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

“SEC. 25. (a) The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manu-

15 USC 278k.

facturing Technology (hereafter in this Act referred to as the 'Centers'). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

"(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

"(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

"(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

"(b) The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

"(c)(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

"(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

"(A) a description of the program;

"(B) procedures to be followed by applicants;

"(C) criteria for determining qualified applicants;

"(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

"(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

Schools and
colleges.

Federal
Register,
publication.

“(3) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on the date of the enactment of this section, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center’s capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center’s activities.

“(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

“(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center’s performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center’s operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.

“(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section.

“(d) There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed \$40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended.

Appropriation
authorization.

“ASSISTANCE TO STATE TECHNOLOGY PROGRAMS

“SEC. 26. (a) In addition to the Centers program created under section 25, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

15 USC 2781.

“(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

“(1) technical information and advice from Institute personnel;

“(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

“(3) entering into cooperative agreements when authorized to do so under this or any other Act.”

Contracts.

15 USC 2781
note.

(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

(B) a description of any anticipated expansion of each State program and its associated costs;

(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

(E) a survey of what additional Federal information and technical assistance the services could utilize; and

(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1), the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901, and under this section. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

Contracts.

(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901.

(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsec-

tion, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

(C) In evaluating each application, the Secretary shall consider—

- (i) the number and types of additional businesses that will be assisted under the cooperative agreement;
- (ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;
- (iii) geographic diversity; and
- (iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

(3) In carrying out section 26 of the Act of March 3, 1901, and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

(4) There are authorized to be appropriated for the purposes of this subsection \$2,000,000 for each of the fiscal years 1989, 1990, and 1991.

Appropriation
authorization.

(5) Cooperative agreements entered into under paragraph (2) shall terminate no later than September 30, 1991.

Contracts.
Termination date

(c) **FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.**—Nothing in sections 25 or 26 of the Act of March 3, 1901, or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502).

15 USC 2781
note.

(d) **NON-ENERGY INVENTIONS PROGRAM.**—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 26 the following new section:

“NON-ENERGY INVENTIONS PROGRAM

“SEC. 27. In conjunction with the initial organization of the Institute, the Director shall establish a program for the evaluation of inventions that are not energy-related to complement but not replace the Energy-Related Inventions Program established under section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577). The Director shall submit an initial implementation plan for this program to accompany the organization plan for the Institute. The implementation plan shall include specific cost estimates, implementation schedules, and mechanisms to help finance the development of technologies the program has determined to have potential. In the preparation of the plan, the Director shall consult with appropriate Federal agencies, including the Small Business Administration and the Department of Energy, State and local government organizations, university officials, and private sector organizations in order to obtain advice on how those agencies and organizations might cooperate with the expansion of this program of the Institute.”

15 USC 278m.

SEC. 5122. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

(a) **CLEARINGHOUSE.**—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

15 USC
3705-3708,
3710-3710d,
3711, 3711a,
3712-3714.
15 USC 3704a.

- (1) by redesignating sections 6 through 19 as sections 7 through 20, respectively; and
- (2) by inserting after section 5 the following new section:

"SEC. 6. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

"(a) ESTABLISHMENT.—There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

"(b) RESPONSIBILITIES.—The Clearinghouse may—

"(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

"(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

"(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

"(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

"(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

"(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

"(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

"(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

"(c) CONTRACTS.—In carrying out subsection (b), the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

"(d) TRIENNIAL REPORT.—The Secretary shall prepare and transmit to the Congress once each 3 years a report on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation. The report shall include recommendations to the Presi-

dent, the Congress, and to Federal agencies on the appropriate Federal role in stimulating State and local efforts in this area. The first of these reports shall be transmitted to the Congress before January 1, 1989.”

(b) DEFINITION.—Section 4 of such Act is amended by adding at the end thereof the following new paragraph: 15 USC 3703.

“(13) ‘Clearinghouse’ means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 6.”

(c) CONFORMING AMENDMENT.—Section 10(d) of such Act, as so redesignated by section 5122(a)(1) of this part, is amended by striking “6, 8, 10, 14, 16, or 17” and inserting in lieu thereof “7, 9, 11, 15, 17, or 18”. 15 USC 3708.

Subpart C—Advanced Technology Program

SEC. 5131. ADVANCED TECHNOLOGY.

(a) ADVANCED TECHNOLOGY PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 27 the following new section:

“ADVANCED TECHNOLOGY PROGRAM

“SEC. 28. (a) There is established in the Institute an Advanced Technology Program (hereafter in this Act referred to as the ‘Program’) for the purpose of assisting United States businesses in creating and applying the generic technology and research results necessary to— 15 USC 278n.

“(1) commercialize significant new scientific discoveries and technologies rapidly; and

“(2) refine manufacturing technologies.

The Secretary, acting through the Director, shall assure that the Program focuses on improving the competitive position of the United States and its businesses, gives preference to discoveries and to technologies that have great economic potential, and avoids providing undue advantage to specific companies.

“(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

“(1) aid United States joint research and development ventures (hereafter in this section referred to as ‘joint ventures’) (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

“(A) provision of organizational and technical advice; and

“(B) participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii) making available equipment, facilities, and personnel, provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

Contracts.

"(2) enter into contracts and cooperative agreements with United States businesses, especially small businesses, and with independent research organizations, provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;

"(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

"(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

"(c) The Secretary, acting through the Director, is authorized to take all actions necessary and appropriate to establish and operate the Program, including—

Federal
Register,
publication.

"(1) publishing in the Federal Register draft criteria and, no later than six months after the date of the enactment of this section, following a public comment period, final criteria, for the selection of recipients of assistance under subsection (b) (1) and (2);

Reports.

"(2) monitoring how technologies developed in its research program are used, and reporting annually to the Congress on the extent of any overseas transfer of these technologies;

Contracts.

"(3) establishing procedures regarding financial reporting and auditing to ensure that contracts and awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted in the same time period in the absence of financial assistance under the Program;

"(4) assuring that the advice of the Committee established under section 10 is considered routinely in carrying out the responsibilities of the Institute; and

"(5) providing for appropriate dissemination of Program research results.

Contracts.

"(d) When entering into contracts or making awards under subsection (b), the following shall apply:

"(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit.

"(2) In the case of joint ventures, the Program shall not make an award unless, in the judgment of the Secretary, acting through the Director, Federal aid is needed if the industry in question is to form a joint venture quickly.

"(3) No Federal contract or cooperative agreement under subsection (b)(2) shall exceed \$2,000,000 over 3 years, or be for more than 3 years unless a full and complete explanation of such proposed award, including reasons for exceeding these limits, is submitted in writing by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed contract or cooperative agreement may be executed only after 30 calendar days on which both Houses of Congress are in session have elapsed since such submission. Federal funds made available under subsec-

tion (b)(2) shall be used only for direct costs and not for indirect costs, profits, or management fees of the contractor.

"(4) In determining whether to make an award to a particular joint venture, the Program shall consider whether the members of the joint venture have made provisions for the appropriate participation of small United States businesses in such joint venture.

"(5) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any business or any joint venture receiving funding under the Program—

Classified
information.

"(A) information on the business operation of any member of the business or joint venture; and

"(B) trade secrets possessed by any business or any member of the joint venture.

"(6) Intellectual property owned and developed by any business or joint venture receiving funding or by any member of such a joint venture may not be disclosed by any officer or employee of the Federal Government except in accordance with a written agreement between the owner or developer and the Program.

Copyrights.
Patents and
trademarks.
Classified
information.

"(7) The Federal Government shall be entitled to a share of the licensing fees and royalty payments made to and retained by any business or joint venture to which it contributes under this section in an amount proportional to the Federal share of the costs incurred by the business or joint venture as determined by independent audit.

"(8) If a business or joint venture fails before the completion of the period for which a contract or award has been made, after all allowable costs have been paid and appropriate audits conducted, the unspent balance of the Federal funds shall be returned by the recipient to the Program.

"(9) Upon dissolution of any joint venture or at the time otherwise agreed upon, the Federal Government shall be entitled to a share of the residual assets of the joint venture proportional to the Federal share of the costs of the joint venture as determined by independent audit.

"(e) As used in this section, the term 'joint research and development venture' has the meaning given to such term in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6))."

(b) **VISITING COMMITTEE ON ADVANCED TECHNOLOGY.**—Section 10 of the Act of March 3, 1901, is amended to read as follows:

"VISITING COMMITTEE ON ADVANCED TECHNOLOGY

"SEC. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the 'Committee'). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its

Establishment.
15 USC 278.

budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

“(b) The persons appointed as members of the Committee—

“(1) shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations;

“(2) shall be selected solely on the basis of established records of distinguished service;

“(3) shall not be employees of the Federal Government; and

“(4) shall be so selected as to provide representation of a cross-section of the traditional and emerging United States industries.

The Director is requested, in making appointments of persons as members of the Committee, to give due consideration to any recommendations which may be submitted to the Director by the National Academies, professional societies, business associations, labor associations, and other appropriate organizations.

“(c)(1) The term of office of each member of the Committee, other than the original members, shall be 3 years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person who has completed two consecutive full terms of service on the Committee shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

“(2) The original members of the Committee shall be elected to three classes of three members each; one class shall have a term of one year, one a term of two years, and the other a term of three years.

“(d) The Committee shall meet at least quarterly at the call of the Chairman or whenever one-third of the members so request in writing. A majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee shall constitute a quorum. Each member shall be given appropriate notice, whenever possible, not less than 15 days prior to any meeting, of the call of such meeting.

“(e) The Committee shall have an executive committee, and may delegate to it or to the Secretary such of the powers and functions granted to the Committee by this Act as it deems appropriate. The Committee is authorized to appoint from among its members such other committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Committee deems appropriate to assist it in exercising its powers and functions under this Act.

“(f) The election of the Chairman and Vice Chairman of the Committee shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Committee shall elect a member to fill such vacancy.

“(g) The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 of title 5 of such Code relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code, as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this Act.

“(h)(1) The Committee shall render an annual report to the Secretary for submission to the Congress on or before January 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, including the Program established under section 28, or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and United States industrial joint research and development ventures.

Reports.

“(2) The Committee shall render to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.”

Reports.

(c) NATIONAL ACADEMIES OF SCIENCES AND ENGINEERING STUDY OF GOVERNMENT-INDUSTRY COOPERATION IN CIVILIAN TECHNOLOGY.—(1) Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall enter into contracts with the National Academies of Sciences and Engineering for a thorough review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology transfer, including activities to create or apply generic, nonproprietary technologies. The purpose of the review is to provide the Secretary and Congress with objective information regarding the uses, strengths, and limitations of the various types of cooperative technology arrangements that have been used in the United States. The review is to provide both an analysis of the ways in which these arrangements can help improve the technological performance and international competitiveness of United States industry, and also to provide the Academies' recommendations regarding ways to improve the effectiveness and efficiency of these types of cooperative arrangements. A special emphasis shall be placed on discussions of these subjects among industry leaders, labor leaders, and officials of the executive branch and Congress. The Secretary is authorized to seek and accept funding for this study from both Federal agencies and private industry.

Contracts.
15 USC 278n
note.

(2) The members of the review panel shall be drawn from among industry and labor leaders, entrepreneurs, former government officials with great experience in civilian research and technology, and scientific and technical experts, including experts with experience with Federal laboratories.

(3) The review shall analyze the strengths and weaknesses of different types of Federal-industry cooperative arrangements in civilian technology, including but not limited to—

(A) Federal programs which provide technical services and information to United States companies;

(B) cooperation between Federal laboratories and United States companies, including activities under the Technology Share Program created by Executive Order 12591;

(C) Federal research and technology transfer arrangements with selected business sectors;

(D) Federal encouragement of, and assistance to, private joint research and development ventures; and

(E) such other mechanisms of Federal-industry cooperation as may be identified by the Secretary.

Reports.

(4) A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contracts with the National Academies of Sciences and Engineering.

Subpart D—Technology Reviews

SEC. 5141. REPORT OF PRESIDENT.

The President shall, at the time of submission of the budget request for fiscal year 1990 to Congress, also submit to the Congress a report on—

(1) the President's policies and budget proposals regarding Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(2) the President's policies and budget proposals regarding Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(3) the President's policies and budget proposals, identified by agency, regarding superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry and to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(4) the President's policies and budget proposals, identified by agency, regarding Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

SEC. 5142. SEMICONDUCTOR RESEARCH AND DEVELOPMENT.

(a) **SHORT TITLE.**—This section may be cited as the “National Advisory Committee on Semiconductor Research and Development Act of 1988”.

(b) **FINDINGS AND PURPOSES.**—(1) The Congress finds and declares that—

(A) semiconductor technology is playing an ever-increasing role in United States industrial and commercial products and processes, making secure domestic sources of state-of-the-art semiconductors highly desirable;

(B) modern weapons systems are highly dependent on leading edge semiconductor devices, and it is counter to the national

security interest to be heavily dependent upon foreign sources for this technology;

(C) governmental responsibilities related to the semiconductor industry are divided among many Federal departments and agencies; and

(D) joint industry-government consideration of semiconductor industry problems is needed at this time.

(2) The purposes of this section are—

(A) to establish the National Advisory Committee on Semiconductors; and

(B) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

(c) **CREATION OF COMMITTEE.**—There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereafter in this section referred to as the “Committee”).

(d) **FUNCTIONS.**—(1) The Committee shall—

(A) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(B) identify the components of a successful national semiconductor strategy in accordance with subsection (b)(2)(B);

(C) analyze options, establish priorities, and recommend roles for participants in the national strategy;

(D) assess the roles for government and national laboratories and other laboratories supported largely for government purposes in contributing to the semiconductor technology base of the Nation, as well as to access the effective use of the resources of United States private industry, United States universities, and private-public research and development efforts; and

(E) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(2) In fulfilling this responsibility, the Committee shall—

(A) monitor the competitiveness of the United States semiconductor technology base;

(B) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(C) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(D) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(E) recommend appropriate actions that support the national semiconductor strategy.

(e) **MEMBERSHIP AND PROCEDURES.**—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and

Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

President of U.S.

(C) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

Reports.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after the date of the enactment of this Act.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, and 1990.

30 USC 1803
note.

SEC. 5143. REVIEW OF RESEARCH AND DEVELOPMENT PRIORITIES IN SUPERCONDUCTORS.

President of U.S.

(a) **NATIONAL COMMISSION ON SUPERCONDUCTIVITY.**—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) **MEMBERSHIP.**—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Depart-

ment of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) CHAIRMAN.—A representative of the private sector shall be designated as chairman of the Commission.

(d) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity and shall provide staff support for the Commission.

(e) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(f) SCOPE OF REVIEW.—In preparing the report required by subsection (e), the Commission shall consider addressing, but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) methods to improve and coordinate funding of research and development of improved superconductors;

(4) methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors;

(8) the benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(9) options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(10) methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

(g) SUNSET.—The Commission shall disband within a year of its establishment. Thereafter the National Critical Materials Council may review and update the report required by subsection (e) and make further recommendations as it deems appropriate.

Subpart E—Authorization of Appropriations

SEC. 5151. AUTHORIZATION OF APPROPRIATIONS FOR TECHNOLOGY ACTIVITIES.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for fiscal year 1988 to the Secretary of Commerce to carry out activities performed by the Institute the sums set forth in the following line items:

- (1) Measurement Research and Technology: \$41,939,000.
- (2) Engineering Measurements and Manufacturing: \$40,287,000.
- (3) Materials Science and Engineering: \$23,521,000.
- (4) Computer Science and Technology: \$7,941,000.
- (5) Research Support Activities: \$19,595,000.
- (6) Cold Neutron Source Facility: \$6,500,000 (for a total authorization of \$13,000,000).

(7) Programs established under sections 25, 26, and 27 of the Act of March 3, 1901 and section 5121 of this part: \$5,000,000.

(b) **LIMITATIONS.**—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), \$2,000,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (1) of subsection (a) of this section, \$3,550,000 is authorized only for the purpose of research in process and quality control;

(3) of the amount authorized under paragraph (2) of subsection (a) of this section, \$3,710,000 is authorized only for the Center for Building Technology, \$5,662,000 is authorized only for the Center for Fire Research, and the two Centers shall not be merged;

(4) of the amount authorized under paragraph (3) of subsection (a) of this section, \$1,500,000 is authorized only for the purpose of research to improve high-performance composites; and

(5) of the amount authorized under paragraph (5) of subsection (a) of this section, \$7,371,000 is authorized only for technical competence fund projects in new areas of high technical importance, and \$1,091,000 is authorized only for the Postdoctoral Research Associates Program and related new personnel.

(c) **TRANSFER.**—(1) Funds may be transferred among the line items listed in subsection (a) of this section so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary of Commerce may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a) of this section, but a full and complete explanation of any such proposed transfer and the reason for such transfer must be transmitted in writing to the President of the Senate, the Speaker of the House of Representatives, and the appropriate authorizing committees of the Senate and House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

(d) **COLD NEUTRON SOURCE FACILITY.**—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal years 1988, 1989, and 1990 such sums as were authorized but not appropriated for the Cold Neutron Source Facility for fiscal year 1987. Furthermore, the Secretary may accept contributions for funds, to remain available until expended, for the design, construction, and equipment of the Cold Neutron Source Facility, notwithstanding the limitations of section 14 of the Act of March 3, 1901 (15 U.S.C. 278d).

Gifts and property.

(e) **EMPLOYEE BENEFIT ADJUSTMENTS.**—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1988 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

(f) **AVAILABILITY.**—Appropriations made under the authority provided in this section shall remain available for obligation, for expenditure, or for obligations and expenditure for periods specified in the Acts making such appropriations.

SEC. 5152. STEVENSON-WYDLER ACT AUTHORIZATIONS.

15 USC 3713.

Section 19 (a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, amended to read as follows:

“(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 5, 11(g), and 16 of this Act not to exceed \$3,400,000 for the fiscal year ending September 30, 1988.

“(2) Of the amount authorized under paragraph (1) of this subsection, \$2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; \$500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act; and \$500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

“(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 6 of this Act not to exceed \$500,000 for the fiscal year ending September 30, 1988, \$1,000,000 for the fiscal year ending September 30, 1989, and \$1,500,000 for the fiscal year ending September 30, 1990.”

Subpart F—Miscellaneous Technology and Commerce Provisions

SEC. 5161. SAVINGS PROVISION AND USER FEES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.), as amended by this part, is further amended by adding after section 28 the following new sections:

“SAVINGS PROVISION

“Sec. 29. All rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to this Act, or under the authority of any other statutes which resulted in the assignment of functions or activities to the Secretary, the Department, the Director, or the Institute, as

Contracts.
15 USC 271 note.

are in effect immediately before the date of enactment of this section, and not suspended by the Secretary, the Director, the Institute or the courts, shall continue in full force and effect after the date of enactment of this section until modified or rescinded.

"USER FEES

15 USC 278o.

"SEC. 30. The Institute shall not implement a policy of charging fees with respect to the use of Institute research facilities by research associates in the absence of express statutory authority to charge such fees."

SEC. 5162. MISCELLANEOUS AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) **INVENTION MANAGEMENT SERVICES.**—The first sentence of section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710c) is amended by striking out "shall" and inserting in lieu thereof "may", and by striking out "such invention performed at the request of the other agency or laboratory" and inserting in lieu thereof "any invention of the other agency".

(b) **FEDERAL LABORATORY CONSORTIUM.**—Section 11(e)(7)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710) is amended by striking out "0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by" and inserting in lieu thereof "0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of".

SEC. 5163. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS.

15 USC 282a.

(a) **ASSESSMENT OF EMERGING TECHNOLOGIES.**—The Board of Assessment of the National Institute of Standards and Technology shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Institute abreast of its mission, including process and quality control, engineering databases, advanced materials, electronics and fiber optics, bioprocess engineering, and advanced computing concepts. Such review shall include estimates of the cost of the required effort, required staffing levels, appropriate interaction with industry, including technology transfer, and the period over which the research will be required.

15 USC 272 note.

(b) **SMALL BUSINESS PLAN.**—The Director of the National Institute of Standards and Technology shall prepare a plan detailing the manner in which the Institute will make small businesses more aware of the Institute's activities and research, and the manner in which the Institute will seek to increase the application by small businesses of the Institute's research, particularly in manufacturing. The plan shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 120 days after the date of the enactment of this Act.

15 USC 3710.

(c) **NATIONAL TECHNICAL INFORMATION SERVICE.**—(1) Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended by inserting at the end the following new subsection:

(d) None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred to the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed \$250,000.”.

Contracts.

The Secretary of Commerce shall report the Secretary's recommendations for improvements in the National Technical Information Service (including methods for automating document distribution and inventory control), and any statutory changes required to make such improvements, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by January 31, 1989.

Reports.

Section 11(d) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended—

15 USC 3710.

- (A) by striking “and” at the end of paragraph (4);
- (B) by striking the period at the end of paragraph (5) and inserting in lieu thereof “; and”; and
- (C) by adding at the end thereof the following new paragraph:

“(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.”.

FELLOWSHIP PROGRAM.—There is established within the Department of Commerce a Commerce, Science, and Technology Fellowship Program with the stated purpose of providing a select group of employees of the executive branch of the Government with the opportunity of learning how the legislative branch and other parts of the executive branch function through work experiences of no more than one year. The Secretary of Commerce shall report to the Congress within six months after the date of enactment of this Act the Department of Commerce's plans for implementing such program by March 31, 1989.

15 USC 1533.

Reports.

5164. METRIC USAGE.

FINDINGS.—Section 2 of the Metric Conversion Act of 1975 is amended by adding at the end thereof the following new paragraphs:

15 USC 205a.

“(3) World trade is increasingly geared towards the metric system of measurement.

“(4) Industry in the United States is often at a competitive disadvantage when dealing in international markets because of its nonstandard measurement system, and is sometimes excluded when it is unable to deliver goods which are measured in metric terms.

“(5) The inherent simplicity of the metric system of measurement and standardization of weights and measures has led to major cost savings in certain industries which have converted to that system.

“(6) The Federal Government has a responsibility to develop procedures and techniques to assist industry, especially small business, as it voluntarily converts to the metric system of measurement.

“(7) The metric system of measurement can provide substantial advantages to the Federal Government in its own operations.”.

15 USC 205b.

(b) **POLICY.**—Section 3 of the Metric Conversion Act of 1975 is amended to read as follows:

“SEC. 3. It is therefore the declared policy of the United States—

“(1) to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

“(2) to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units;

“(3) to seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in Government publications; and

“(4) to permit the continued use of traditional systems of weights and measures in nonbusiness activities.”.

15 USC 205k.

(c) **IMPLEMENTATION.**—The Metric Conversion Act of 1975 is further amended by redesignating section 12 as section 13, and by inserting after section 11 the following new section:

Reports.

15 USC 205j-1.

“SEC. 12. (a) As soon as possible after the date of the enactment of this section, each agency of the Federal Government shall establish guidelines to carry out the policy set forth in section 3 (with particular emphasis upon the policy set forth in paragraph (2) of that section), and as part of its annual budget submission for each fiscal year beginning after such date shall report to the Congress on the actions which it has taken during the previous fiscal year, as well as the actions which it plans for the fiscal year involved, to implement fully the metric system of measurement in accordance with that policy. Such reporting shall cease for an agency in the fiscal year after it has fully implemented its efforts under section 3(2). As used in this section, the term ‘agency of the Federal Government’ means an Executive agency or military department as those terms as defined in chapter 1 of title 5, United States Code.

“(b) At the end of the fiscal year 1992, the Comptroller General shall review the implementation of this Act, and upon completion of such review shall report his findings to the Congress along with any legislative recommendations he may have.”.

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

SEC. 5171. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH.

(a) Section 502 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656b) is amended by adding at the end the following new paragraph:

“(5) Federally supported international science and technology agreements should be negotiated to ensure that—

“(A) intellectual property rights are properly protected;
and

Copyrights.
Patents and
trademarks.

“(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.”.

Section 503(b) of the Foreign Relations Authorization Act, 1979 (22 U.S.C. 2656c(b)) is amended—

(1) by striking “Congress” and inserting in lieu thereof “the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate”;

(2) by inserting “information and” before “recommendations”;

(3) by striking “and” at the end of paragraph (1);

(4) by striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and

(5) by adding at the end the following new paragraph:

“(3) equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.”.

Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c) is amended by adding at the end the following new subsection:

(1) The information and recommendations developed under section (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.”.

President of U.S.

Section 504(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656d(a)) is amended to read as follows:

(1) In order to implement the policies set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the “Secretary”) shall have primary responsibility for coordinating and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of the United States and one or more foreign countries are involved.

(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade advantages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors which may be deemed appropriate.

(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies which are responsible for—

“(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

“(B) national security policies;

“(C) United States trade policies; and

Defense and
national
security.

“(D) relevant Executive orders, with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.”.

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1804
note.

SEC. 5181. THE NATIONAL FEDERAL PROGRAM PLAN FOR ADVANCED MATERIALS RESEARCH AND DEVELOPMENT.

The National Critical Materials Council shall prepare the national Federal program plan for advanced materials research and development under section 205(a)(1)(A) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1251) and shall submit such plan to Congress not later than 180 days after the date of the enactment of this Act. The plan shall be submitted to the Committee on Science, Space, and Technology, as well as other appropriate committees, of the House of Representatives, and to the Committee on Governmental Affairs, as well as other appropriate committees, of the Senate.

30 USC 1807
note.

SEC. 5182. PERSONNEL MATTERS.

(a) **REQUIREMENT To INCREASE STAFF.**—Not later than 30 days after the date of the enactment of this Act, the Executive Director of the National Critical Materials Council shall increase the number of employees of the Council by the equivalent of 5 full-time employees over the number of employees of the Council on the date of the enactment of this Act.

(b) **QUALIFICATIONS OF STAFF.**—Not less than the equivalent of 4 full-time employees appointed pursuant to subsection (a) shall be permanent professional employees who have expertise in technical fields that are relevant to the responsibilities of the National Critical Materials Council, such as materials science and engineering, environmental matters, minerals and natural resources, ceramic or composite engineering, metallurgy, and geology.

SEC. 5183. AUTHORITY TO ACCEPT SERVICES AND PERSONNEL FROM OTHER FEDERAL AGENCIES.

30 USC 1809.

Section 210(4) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out “reimbursable” and inserting in lieu thereof “nonreimbursable”.

SEC. 5184. AUTHORIZATION OF APPROPRIATIONS.

30 USC 1810.

Section 211 of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out “1990” and inserting in lieu thereof “1992”.

Competitiveness
Policy Council
Act.

Subtitle C—Competitiveness Policy Council Act

15 USC 4801
note.

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the “Competitiveness Policy Council Act”.

SEC. 5202. FINDINGS AND PURPOSES.

15 USC 4801.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

- (i) reveal sectoral strengths and weaknesses;
- (ii) identify potential new markets and future technological and economic trends; and
- (iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

- (i) international trade, finance, and investment,
- (ii) research, science, and technology,
- (iii) education, labor retraining, and adjustment,
- (iv) macroeconomic and budgetary issues,
- (v) antitrust and regulation, and
- (vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy; and

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Competitiveness Policy Council which shall—

(A) analyze information regarding the competitiveness of United States industries and business and trade policy;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities shall—

- (i) identify economic problems inhibiting the competitiveness of United States agriculture, business, and industry;
- (ii) develop long-term strategies to address such problem; and

Agriculture and agricultural commodities.

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies;

(D) publish analysis in the form of periodic reports and recommendations concerning the United States business and trade policy.

15 USC 4802.

SEC. 5203. COUNCIL ESTABLISHED.

There is established the Competitiveness Policy Council (hereafter in this subtitle referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

15 USC 4803.

SEC. 5204. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy.

Reports.

SEC. 5205. MEMBERSHIP.

15 USC 4804.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Council shall consist of 12 members, of whom—
(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

(b) **INITIAL APPOINTMENTS.**—The initial members of the Council shall be appointed within 30 days after January 21, 1989.

(c) **VACANCIES.**—

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) **REMOVAL.**—Members of the Council may be removed only for malfeasance in office.

(e) **CONFLICT OF INTEREST.**—

(1) A member of the Council may not serve as an agent for a foreign principal.

(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) **COMPENSATION.**—

(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) **QUORUM.**—

(1) **IN GENERAL.**—Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(2) **INITIAL ORGANIZATION.**—The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) **CHAIRPERSON.**—The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

(i) **MEETINGS.**—The Council shall meet at the call of the chairperson or a majority of the members.

(j) **POLICY ACTIONS.**—Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(k) **ALTERNATE MEMBERS.**—

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(l) **EXPERTS AND CONSULTANTS.**—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) **DETAILS.**—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.

SEC. 5206. EXECUTIVE DIRECTOR AND STAFF.

15 USC 4805.

(a) **EXECUTIVE DIRECTOR.**—

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) **STAFF.**—(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

SEC. 5207. POWERS OF THE COUNCIL.

15 USC 4806.

(a) **HEARINGS.**—The Council may, for the purpose of carrying out the provisions of this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) **INFORMATION.**—

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this subtitle. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

Classified
information.
Defense and
national
security.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such

Reports.

information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

(d) **CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.**—No later than 60 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

(e) **GIFTS.**—The Council may accept, use, and dispose of gifts or donations of services or property.

(f) **USE OF THE MAILS.**—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) **ADMINISTRATIVE AND SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

(h) **SUBCOUNCILS.**—

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council to be important to developing a full understanding of the subject with which the subcouncil is concerned.

(3) Any such subcouncil shall include a representative of the Federal Government.

(4) Any such subcouncil shall assess the actual or potential competitiveness problems facing the industry or the specific policy issues with which the subcouncil is concerned and shall formulate specific recommendations for responses by business, government, and labor—

(A) to encourage adjustment and modernization of the industry involved;

(B) to monitor and facilitate industry responsiveness to opportunities identified under section 5208(b)(1)(B);

(C) to encourage the ability of the industry involved to compete in markets identified under section 5208(b)(1)(C); or

(D) to alleviate the problems in a specific policy area facing more than one industry.

(5) Any discussion held by any subcouncil shall not be considered to violate any Federal or State antitrust law.

(6) Any discussion held by any subcouncil shall not be subject to the provisions of the Federal Advisory Committee Act, except that a Federal representative shall attend all subcouncil meetings.

(7) Any subcouncil shall terminate 30 days after making recommendations, unless the Council specifically requests that the subcouncil continue in operation.

(i) **APPLICABILITY OF ADVISORY COMMITTEE ACT.**—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Council.

Termination
date.

SEC. 5208. ANNUAL REPORT.

15 USC 4807.

(a) **SUBMISSION OF REPORT.**—The Council shall annually prepare and submit to the President, the Senate Governmental Affairs Committee, and the appropriate Committees of the House of Representatives and the Senate a report setting forth—

(1) the goals to achieve a more competitive United States economy;

(2) the policies needed to meet such goals;

(3) a summary of existing policies of the Federal Government or State and local governments significantly affecting the competitiveness of the United States economy; and

(4) a summary of significant economic and technological developments, in the United States and abroad, affecting the competitive position of United States industries.

(b) **CONTENTS OF REPORT.**—The report submitted under subsection (a) shall—

(1) identify and describe actual or foreseeable developments, in the United States and abroad, which—

(A) create a significant likelihood of a competitive challenge to, or of substantial dislocation in, an established United States industry;

(B) present significant opportunities for United States industries to compete in new geographical markets or product markets, or to expand the position of such industries in established markets; or

(C) create a significant risk that United States industries shall be unable to compete successfully in significant markets;

(2) specify the industry sectors affected by the developments described in the report under paragraph (1); and

(3) contain a statement of the findings and recommendations of the Council during the previous fiscal year, including any recommendations of the Council for (a) such legislative or administrative actions as the Council considers appropriate, and (b) including the elimination, consolidation, reorganization of government agencies especially such agencies that specifically deal with research, science, technology, and international trade.

(c) **REPORT BY CONGRESSIONAL COMMITTEES.**—The Council shall consult with each committee to which a report is submitted under this section and after such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

SEC. 5209. AUTHORIZATION OF APPROPRIATIONS.

15 USC 4808.

There are authorized to be appropriated for each of the fiscal years 1989 and 1990 such sums as may be necessary not to exceed \$5,000,000 to carry out the provisions of this subtitle.

SEC. 5210. DEFINITIONS.

15 USC 4809.

For purposes of this subtitle—

(1) the term “Council” means the Competitiveness Policy Council established under section 5203;

(2) the term “member” means a member of the Competitiveness Policy Council;

(3) the term “United States” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

Subtitle D—Federal Budget Competitiveness Impact Statement

SEC. 5301. PRESIDENT'S ANNUAL BUDGET SUBMISSION.

Subsection (a) of section 1105 of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(26) an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar."

SEC. 5302. ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.

Subsection (e) of section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by "and" at the end of paragraph (8), by striking out the period and by inserting "; and" at the end of paragraph (9), and by inserting at the end thereof the following new paragraph:

"(10) an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

- “(D) the merchandise trade and current accounts;
- “(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and
- “(F) the estimated direction and extent of the influence of the Government’s borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.”.

SEC. 5303. EFFECTIVE DATE.31 USC 1105
note.

The amendment made by section 5301 shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 shall be effective for fiscal years 1989, 1990, 1991, and 1992.

Subtitle E—Trade Data and Studies

PART I—NATIONAL TRADE DATA BANK

SEC. 5401. DEFINITIONS.

15 USC 4901.

For purposes of this subtitle—

(1) the term “Committee” means the Interagency Trade Data Advisory Committee;

(2) the term “Data Bank” means the National Trade Data Bank;

(3) the term “Executive agency” has the same meaning as in section 105 of title 5, United States Code;

(4) the term “export promotion data system” means the data system known as the Commercial Information Management System which is maintained and operated by the United States and Foreign Commercial Service and is established as part of the Data Bank under section 3816;

(5) the term “international economic data system” means the data system established as part of the Data Bank under section 5406 which contains data useful to policymakers and analysis concerned with international economics; and

(6) the term “Secretary” means the Secretary of Commerce.

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE.

15 USC 4902.

(a) **ESTABLISHMENT.**—There is established the Interagency Trade Data Advisory Committee.

(b) **MEMBERSHIP.**—The Committee shall consist of—

(1) the United States Trade Representative;

(2) the Secretary of Agriculture;

(3) the Secretary of Defense;

(4) the Secretary of Commerce;

(5) the Secretary of Labor;

(6) the Secretary of the Treasury;

(7) the Secretary of State;

(8) the Director of the Office of Management and Budget;

(9) the Director of Central Intelligence;

(10) the Chairman of the Federal Reserve Board;

(11) the Chairman of the International Trade Commission;

(12) the President of the Export-Import Bank;

(13) the President of the Overseas Private Investment Corporation; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) **CHAIRMAN.**—The Secretary of Commerce shall be Chairman of the Committee.

(d) **DESIGNEES.**—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

15 USC 4903.

SEC. 5403. FUNCTIONS OF THE COMMITTEE.

The Committee shall advise the Secretary of Commerce, as appropriate, on the establishment, structure, contents, and operation of a National Trade Data Bank in accordance with section 5406 in order to assure the timely collection of accurate data and to provide the private sector and government officials efficient access to economic and trade data collected by the Federal Government for purposes of policymaking and export promotion.

15 USC 4904.

SEC. 5404. CONSULTATION WITH THE PRIVATE SECTOR AND GOVERNMENT OFFICIALS.

The Secretary shall regularly consult with representatives of the private sector and officials of State and local governments to assess the adequacy of United States trade information. The Secretary shall seek recommendations on how trade information can be made more accessible, understandable, and relevant. The Secretary shall seek recommendations as to what data should be included in the export promotion data system in the Data Bank.

15 USC 4905.

SEC. 5405. COOPERATION AMONG EXECUTIVE AGENCIES.

Each executive agency shall furnish to the Secretary such information for inclusion in the National Trade Data Bank as the Secretary, in consultation with the Advisory Committee, considers necessary to the operation of the Data Bank.

15 USC 4906.

SEC. 5406. ESTABLISHMENT OF THE DATA BANK.

(a) **ESTABLISHMENT.**—Within 2 years after the date of the enactment of this Act, the Secretary of Commerce shall establish the Data Bank. The Secretary shall manage the Data Bank. The Data Bank shall consist of two data systems, to be designated the International Economic Data System, as described in subsection (b) and the Export Promotion Data System, as described in subsection (c).

(b) **INTERNATIONAL ECONOMIC DATA SYSTEM.**—The International Economic Data System shall include current and historical information determined by the Secretary to be useful (after the consultation required by section 5404) to policymakers and analysts concerned with international economics and trade and which shall include data compiled or obtained by appropriate executive agencies. Such information shall not identify parties to transactions. Such information may include data for the United States and countries with which the United States has important economic relations including—

(1) data on imports and exports, including—

(A) aggregate import and export data for the United States and for each foreign country;

(B) industry-specific import and export data for each foreign country;

- (C) product and service specific import and export data for the United States;
- (D) market penetration information; and
- (E) foreign destinations for exports of the United States;
- (2) data on international service transactions;
- (3) information on international capital markets, including—
 - (A) interest rates; and
 - (B) average exchange rates;
- (4) information on foreign direct investment in the United States economy;
- (5) international labor market information, including—
 - (A) wage rates for major industries;
 - (B) international unemployment rates; and
 - (C) trends in international labor productivity;
- (6) information on foreign government policies affecting trade, including—
 - (A) trade barriers; and
 - (B) export financing policies;
- (7) import and export data for the United States on a State-by-State basis aggregated at the product level including—
 - (A) data concerning the country shipping the import, the State of first destination, and the original port of entry for imports of goods and, to the extent possible, services; and
 - (B) data concerning the State of the exporter, the port of departure, and the country of first destination for export of goods and, to the extent possible, services; and
- (8) any other economic and trade data collected by the Federal Government that the Secretary determines to be useful in carrying out the purposes of this subtitle.

(c) **EXPORT PROMOTION DATA SYSTEM.**—The export promotion data system shall include data and information collected by the Federal Government on the industrial sectors and markets of foreign countries which are determined by the Secretary (after consultation required by section 5404) to be of the greatest interest to United States business firms that are engaged in export-related activities and to Federal and State agencies that promote exports, while providing for the confidentiality of proprietary business information, and shall be designed to use the most effective means of disseminating data and information electronically through the Department, or Department-designated offices, or through other available data bases in an accurate and timely manner. Such data system shall monitor, organize, and disseminate selected information on—

Classified
information.

- (1) specific business opportunities in foreign countries;
- (2) specific industrial sectors within foreign countries with high export potential such as—
 - (A) size of the market;
 - (B) distribution of products;
 - (C) competition;
 - (D) significant applicable laws, regulations, specifications, and standards;
 - (E) appropriate government officials; and
 - (F) trade associations and other contact points; and
- (3) foreign countries generally, such as—
 - (A) the general economic conditions;
 - (B) common business practices;
 - (C) significant tariff and trade barriers; and

- (D) other significant laws and regulations regarding imports, licensing, and the protection of intellectual property;
- (4) export financing information, including the availability, through public sources of funds for United States exporters and foreign competitors;
- (5) transactions involving barter and countertrade; and
- (6) any other similar information, that the Secretary determines to be useful in carrying out the purposes of this subtitle.

15 USC 4907.

SEC. 5407. OPERATION OF THE DATA BANK.

The Secretary shall manage the Data Bank to provide the most appropriate data retrieval system or systems possible. Such system or systems shall—

- (1) be designed to utilize data processing and retrieval technology in monitoring, organizing, analyzing, and disseminating the data and information contained in the Data Bank;
- (2) use the most effective and meaningful means of organizing and making such information available to—
 - (A) United States Government policymakers;
 - (B) United States business firms;
 - (C) United States workers;
 - (D) United States industry associations;
 - (E) United States agricultural interests;
 - (F) State and local economic development agencies; and
 - (G) other interested United States persons who could benefit from such information;
- (3) be of such quality and timeliness and in such form as to assist coordinated trade strategies for the United States; and
- (4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the United States and Foreign Commercial Service.

15 USC 4908.

SEC. 5408. INFORMATION ON THE SERVICE SECTOR.

(a) **SERVICE SECTOR INFORMATION.**—The Secretary shall ensure that, to the extent possible, there is included in the Data Bank information on service sector economic activity that is as complete and timely as information on economic activity in the merchandise sector.

(b) **SURVEY.**—The Secretary shall undertake a new benchmark survey of service transactions, including transactions with respect to—

- (1) banking services;
- (2) information services, including computer software services;
- (3) brokerage services;
- (4) transportation services;
- (5) travel services;
- (6) engineering services;
- (7) construction services; and
- (8) health services.

(c) **GENERAL INFORMATION AND INDEX OF LEADING INDICATORS.**—The Secretary shall provide—

- (1) not less than once a year, comprehensive information on the service sector of the economy; and
- (2) an index of leading indicators which includes the measurement of service sector activity in direct proportion to the con-

tribution of the service sector to the gross national product of the United States.

SEC. 5409. EXCLUSION OF INFORMATION.

15 USC 4909.

The Data Bank shall not include any information—

(1) the disclosure of which to the public is prohibited under any other provision of law or otherwise authorized to be withheld under other provision of law; or

(2) that is specifically authorized under criteria established by statute or an Executive order not to be disclosed in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

SEC. 5410. NONDUPLICATION.

15 USC 4910.

The Secretary shall ensure that information systems created or developed pursuant to this subtitle do not unnecessarily duplicate information systems available from other Federal agencies or from the private sector.

SEC. 5411. COLLECTION OF DATA.

15 USC 4911.

Except as provided in section 5408, nothing in this subtitle shall be considered to grant independent authority to the Federal Government to collect any data or information from individuals or entities outside of the Federal Government.

SEC. 5412. FEES AND ACCESS.

15 USC 4912.

The Secretary shall provide reasonable public services and access (including electronic access) to any information maintained as part of the Data Bank and may charge reasonable fees consistent with section 552 of title 5, United States Code.

SEC. 5413. REPORT TO CONGRESS.

15 USC 4913.

(a) **INTERIM REPORT.**—Not more than 1 year after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives describing actions taken pursuant to this subtitle, particularly—

(1) actions taken to provide the information on services described in section 5408; and

(2) actions taken to provide State-by-State information as described in section 5406(b)(7).

(b) **FINAL REPORT.**—Not more than 3 years after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives—

(1) assessing the current quality and comprehensiveness of, and the ability of the public and of private entities to obtain access to trade data;

(2) describing all other actions taken and planned to be taken pursuant to this subtitle;

(3) including comments by the private sector and by State agencies that promote exports on the implementation of the Data Bank;

(4) describing the extent to which the systems within the Data Bank are being used and any recommendations with regard to the operation of the system; and

(5) describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

PART II—STUDIES

2 USC 194b.

SEC. 5421. COMPETITIVENESS IMPACT STATEMENTS.

(a) The President or the head of the appropriate department or agency of the Federal Government shall include in every recommendation or report made to the Congress on legislation which may affect the ability of United States firms to compete in domestic and international commerce a statement of the impact of such legislation on—

(1) the international trade and public interest of the United States, and

(2) the ability of United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets.

(b) This section provides no private right of action as to the need for or adequacy of the statement required by subsection (a).

Termination
date.

(c) This section shall cease to be effective six years from the date of enactment.

15 USC 4603a.

SEC. 5422. STUDY AND REPORT BY THE ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH.

(a) **STUDY AND REPORT.**—Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Advisory Council on Federal Participation in Sematech established under section 273(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (15 U.S.C. 4603(a); Public Law 100-180) shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Economic Affairs.

(b) **COUNCIL RECOMMENDATIONS AND REPORT.**—The Council shall include in the report submitted under subsection (a) the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year.

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

SEC. 5423. IMPACT OF NATIONAL DEFENSE EXPENDITURES ON INTERNATIONAL COMPETITIVENESS.

(a) **FINDINGS.**—The Congress finds that the ability of United States industries to compete in world markets may be adversely affected by the following factors:

(1) The allocation of intellectual resources between the private and public sectors.

(2) The distribution of innovative research and development between commercial and noncommercial applications.

(3) The number of scientific advances which are ultimately commercialized.

(4) The cost of capital which is affected by many factors including the budget deficit and defense spending.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should evaluate the impact on United States competitiveness of—

(1) the defense spending by foreign countries, particularly Japan's expenditure of 1 percent of its gross national product for defense compared to the expenditure of the United States of 6 percent of its gross national product, and

(2) the other factors listed in subsection (a).

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Education and Training for a Competitive America Act of 1988".

SEC. 6002. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by increased foreign competition;

(2) our Nation's once undisputed pre-eminence in international commerce is facing unprecedented challenges from competitor nations who have given priority to the relationship between education and economic growth in areas such as high technology industries;

(3) our standing in the international marketplace is being further eroded by the presence in the workforce of millions of Americans who are functionally or technologically illiterate or who lack the mathematics, science, foreign language, or vocational skills needed to adapt to the structural changes occurring in the global economy;

(4) our competitive position is also being eroded by declines in the number of students taking advanced courses in mathematics, science, and foreign languages and by the lack of

Education and Training for a Competitive America Act of 1988.
Disadvantaged persons.
Employment and unemployment.
Schools and colleges.
20 USC 5001.
20 USC 5002.

modern technical and laboratory equipment in our educational institutions;

(5) restoring our competitiveness and enhancing our productivity will require that all workers possess basic educational skills and that many others possess highly specific skills in mathematics, science, foreign languages, and vocational areas; and

(6) our Nation must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSE.—It is therefore the purpose of this title to establish programs designed—

(1) to enhance ongoing efforts in elementary and secondary education;

(2) to improve our productivity and competitive position by investing in human capital;

(3) to assist out-of-school youth and adults who are functionally illiterate in obtaining the basic skills needed for them to become productive workers in a competitive economy;

(4) to help educational institutions prepare those engaged in work relating to mathematics, science, and foreign languages by improving and expanding instruction in those areas and by modernizing laboratory and technical equipment;

(5) to enhance the skills of workers affected, or about to be affected, by economic change, in order to prevent dislocation within existing industries and to strengthen emerging domestic industries; and

(6) to accomplish such purposes without impairing the availability of funds to carry out existing programs that address the needs of dislocated workers, such as previously authorized education programs.

Disadvantaged persons.

Schools and colleges.

Employment and unemployment.

20 USC 5003.

SEC. 6003. DEFINITIONS.

As used in this title—

(1) The term “foreign language instruction” means instruction in critical foreign languages as defined by the Secretary.

(2) The term “institution of higher education” has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(3) The terms “local educational agency” and “State educational agency” have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term “Secretary” means the Secretary of Education.

(5) The term “State” means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

20 USC 5004.

SEC. 6004. GENERAL PROVISIONS.

(a) GRANT REQUIREMENTS.—The Secretary shall ensure, with respect to grants provided under subtitles A and B, that—

(1) services assisted by funds received under such grants shall be made available to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited English proficiency, and migrant students;

Women.
Minorities.
Handicapped persons.

(2) the terms “training” and “instruction” are interpreted to include training and instruction through telecommunications technologies, including the full range of current and new technologies that can be used for educational purposes, such as television broadcasts, closed circuit television systems, cable television, satellite transmissions, computers, VHS, laser discs, and audio by discs, tapes, or broadcast, and such other video and telecommunications technologies that alone or in combination can assist in teaching and learning; and

(3) where appropriate, programs funded under subtitles A and B shall be coordinated with other federally funded education and training programs.

(b) **ADDITIONAL ELIGIBLE INSTITUTIONS.**—For purposes of any program authorized by subtitle A or B, institutions eligible to participate shall include any accredited proprietary institution providing a program of less than six months duration that is otherwise eligible to participate in any program under subtitle A or B.

(c) **BUDGET LIMITATION.**—The Secretary may not make grants or enter into contracts under subtitle A, B, or C except to such extent, or in such amounts, as may be provided in appropriation Acts.

Subtitle A—Elementary and Secondary Education

State and local governments.

CHAPTER 1—MATHEMATICS AND SCIENCE

SEC. 6005. MATHEMATICS AND SCIENCE EDUCATION REAUTHORIZED.

Section 203(b) of the Education for Economic Security Act is amended to read as follows: 20 USC 3963.

“(b) There are authorized to be appropriated \$175,000,000 for the fiscal year 1988 to carry out the provisions of this title.”. Appropriation authorization.

CHAPTER 2—ADULT LITERACY

SEC. 6011. WORKPLACE LITERACY PARTNERSHIPS GRANTS

(a) **ESTABLISHMENT OF GRANT PROGRAM.**—The Adult Education Act is amended by inserting after section 315 the following new section:

“BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY

“SEC. 316. (a) **GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.**—(1) Subject to subsection (b), the Secretary may make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

“(A) business, industry, or labor organizations, or private industry councils; and

“(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

“(2) Grants under paragraph (1) may be used—

“(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

“(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

“(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

“(A) providing adult literacy and other basic skills services and activities;

“(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

“(C) meeting the literacy needs of adults with limited English proficiency;

“(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

“(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

“(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

“(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

“(A) be submitted jointly by—

“(i) a business, industry, or labor organization, or private industry council; and

“(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

“(B) set forth the respective roles of each member of the partnership;

“(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

“(D) describe the plan for carrying out the requirements of paragraph (3); and

“(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

“(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed \$50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

“(A) business, industry, or labor organizations, or private industry councils; and

“(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

“(2) Grants under paragraph (1) may be used—

“(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

Children and
youth.

“(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

“(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

“(3) A State shall be eligible to receive its allotment under subsection (e) if it—

“(A) includes in a State plan submitted to the Secretary under section 306 a description of—

“(i) the requirements for State approval of funding of a program;

“(ii) the procedures under which applications for such funding may be submitted; and

“(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

“(B) satisfies the requirements of section 306(a).

“(4) The program requirements set forth in subsection (a)(3), shall apply to the program authorized by this subsection.

“(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

“(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

“(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

“(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed \$50,000,000, the Secretary shall allot—

“(i) \$25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

“(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

“(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

“(II) the number of such adults in all States;

except that no State shall receive less than \$125,000 in any fiscal year.

“(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

“(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

“(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

“(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated \$30,000,000 for the fiscal year 1988, \$31,500,000 for the fiscal year 1989, and such sums as may be necessary for the

Territories, U.S.

fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) Amounts appropriated under this subsection shall remain available until expended."

20 USC 1202.

(b) **DEFINITIONS.**—Section 303 of the Adult Education Act is amended by adding at the end the following new subsections:

"(k) The term 'community-based organization' has the meaning given such term in section 4(5) of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

"(l) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act (21 U.S.C. 1501 et seq.)."

SEC. 6012. ENGLISH LITERACY GRANTS.

(a) **ESTABLISHMENT OF GRANT PROGRAM.**—The Adult Education Act is amended by inserting after section 316 (as added by section 6011) the following new section:

"ENGLISH LITERACY PROGRAM GRANTS

"SEC. 317. (a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 306 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 306 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) **SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.**—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

Minorities.
Community
development.

Children and
youth.
Transportation.

“(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

“(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

Contracts.

“(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

“(2) to designate the Center for Applicable Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

“(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

“(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated \$25,000,000 for the fiscal year 1988 to carry out this section.

“(2) Funds appropriated pursuant to this section shall remain available until expended.

“(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

“(4) Not more than 10 percent of funds available under this section shall be used to carry out the purposes of subsection (d).”.

(b) DEFINITIONS.—Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.) (as amended by section 6011) is amended by adding at the end the following new subsections:

“(m) The term ‘individual of limited English proficiency’ means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

“(1) whose native language is a language other than English;

or

“(2) who lives in a family or community environment where a language other than English is the dominant language.

“(n) The term ‘out-of-school youth’ means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

“(o) The term ‘English literacy program’ means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

“(p) The term ‘community-based organization’ means a private organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related

organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.”.

SEC. 6013. LITERACY COORDINATION.

(a) **FEDERAL LITERACY OFFICE.**—The Adult Education Act is amended by inserting after section 317 (as added by section 6012) the following new section:

“COORDINATION OF LITERACY PROGRAMS

“SEC. 318. (a) FEDERAL LITERACY COORDINATION OFFICE.—The Adult Education Division shall serve as the Federal literacy coordination office.

“(b) DUTIES.—The Secretary, through the Division, shall—

“(1) coordinate Federal literacy programs, including grant programs administered under this chapter and other grant programs funded under the Adult Education Act (20 U.S.C. 1201 et seq.); and

“(2) provide information and guidance to States with respect to the establishment of State and local volunteer programs relating to literacy.

“(c) STATE LITERACY COORDINATION.—To the extent practicable, each State agency designated under section 306(b)(2) that receives funds under section 316 or section 317 shall—

“(1) designate area offices for coordination of literacy programs, distributed throughout the State so that persons in all areas of the State have access to literacy programs;

“(2) train personnel who will operate the area offices;

“(3) determine curricula and materials for literacy programs;

“(4) oversee area offices;

“(5) provide assistance to area offices;

“(6) conduct programs to recruit volunteers and participants;

“(7) coordinate the programs described in paragraph (6) with existing literacy programs; and

“(8) allocate funds to area offices.”.

SEC. 6014. APPLICABILITY PROVISION.

The amendments made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 3—FOREIGN LANGUAGES

Subchapter A—Foreign Language Assistance

SEC. 6021. SHORT TITLE.

This subchapter may be cited as the “Foreign Language Assistance Act of 1988”.

SEC. 6022. FINDINGS.

The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation’s elementary and secondary schools, and Federal funds should be made available to assist the purpose of this subchapter.

Foreign
Language
Assistance Act of
1988.
20 USC 5011.

20 USC 5012.

SEC. 6023. PROGRAM AUTHORIZED.

20 USC 5013.

Grants.

(a) **GENERAL AUTHORITY.**—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

(b) **APPLICATION.**—Any State educational agency desiring to receive a grant under this subchapter shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

(1) contains a description of model programs which—

(A) are designed by local educational agencies and are available without regard to whether students attend the schools operated by such agency and if the local educational agency determines to do so, are available to residents of the community,

(B) represents a variety of alternative and innovative approaches to foreign language instruction, and

(C) are selected on a competitive basis by the State educational agency;

(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

(c) **FEDERAL SHARE.**—(1) The Federal share for each fiscal year shall be 50 percent.

(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

(d) **PARTICIPATION OF PRIVATE SCHOOLS.**—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

Children and youth.

(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

20 USC 5014.

Territories, U.S.

SEC. 6024. ALLOTMENT.

(a) **GENERAL RULE.**—(1) From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

(b) **AVAILABILITY OF FUNDS.**—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

20 USC 5015.

SEC. 6025. DEFINITIONS.

(a) **GENERAL RULE.**—For the purpose of this subchapter, the term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(b) **SPECIAL RULE.**—For the purpose of section 6024—

(1) the term "school age population" means the population aged 5 through 17; and

(2) the term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 5016.

SEC. 6026. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$20,000,000 for the fiscal year 1988 to carry out this subchapter.

Subchapter B—Presidential Award for Languages

20 USC 5021.

SEC. 6027. PRESIDENTIAL AWARDS.

(a) **GENERAL AUTHORITY.**—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

(b) **SELECTION PROCEDURES.**—The President is authorized to make 104 awards under subsection (a) of this section. In selecting ele-

District of
Columbia.
Puerto Rico.

ary and secondary school teachers for the award authorized by section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

6028. ADMINISTRATIVE PROVISIONS.

20 USC 5022.

The President shall carry out the provisions of section 6027, including the establishment of the selection procedures, after consultation with the Secretary of Education, other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

6029. AUTHORIZATION OF APPROPRIATIONS.

20 USC 5023.

AUTHORIZATION.—There are authorized to be appropriated \$10,000 for fiscal year 1988 to carry out the provisions of this chapter.

USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under section 6027, for administrative expenses, for necessary travel by teachers selected under section 6027, and for special activities related to carrying out the provisions of this subchapter.

CHAPTER 4—SCIENCE AND MATHEMATICS ELEMENTARY AND SECONDARY BUSINESS PARTNERSHIPS

6031. PROGRAM AUTHORIZED.

ESTABLISHMENT OF PROGRAM.—Title III of the Education for Economic Security Act (20 U.S.C. 3981 et seq.) is amended—

(1) by inserting after the title heading the following:

“PART A—HIGHER EDUCATION PARTNERSHIPS”; and

(2) by adding at the end the following new part:

PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

Grants.

“PURPOSE

SEC. 321. It is the purpose of this part to supplement State and local resources to—

20 USC 3991.

“(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

“(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

“(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

“PROGRAMS AUTHORIZED

20 USC 3992.

“SEC. 322. (a) GRANTS.—The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 324.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this chapter \$20,000,000 for fiscal year 1988.

“AMENDMENT TO STATE APPLICATION

20 USC 3993.

“SEC. 323. (a) APPLICATION.—A State shall be eligible to receive a grant under this part if—

“(1) the State submits to the Secretary as part of its application under section 209 such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

“(2) the Secretary approves such application.

“(b) APPLICATION REQUIREMENTS.—The Secretary shall require each application to include—

“(1) a description of the State’s procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

“(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

“(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

“ELIGIBLE PROGRAMS

20 USC 3994.

“SEC. 324. (a) IN GENERAL.—A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

“(b) USE OF FUNDS.—Funds from grants received under this part may be used for the following:

“(1) IMPROVEMENT OF ELEMENTARY AND SECONDARY RESOURCES.—Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

“(A) improve instruction in mathematics and science education at the elementary and secondary level;

“(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

“(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

“(2) ADVANCED PLACEMENT PROGRAMS.—(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

“(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

“(i) the number of students participating in the program; and

“(ii) the instruction time such students receive under the program.

“LOCAL APPLICATIONS

SEC. 325. (a) **ELIGIBILITY.**—An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State requires. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210, if appropriate. 20 USC 3995.

(b) **REQUIREMENTS FOR APPLICATION.**—The State shall require an application to include—

“(1) a description of the activities for which assistance under this part is sought;

“(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

“(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1)—

“(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

“(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

“(C) assurances that—

“(i) except as provided in subsection (c), a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

“(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

“(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

“(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

“(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2), a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

(c) **WAIVER.**—The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) if the State determines that—

“(1) substantial need exists in the area served by the applicant for a grant under this part; and

"(2) the required amount of matching funds cannot be made available.

"(d) JOINT APPLICATIONS.—A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a).

"SUBMISSION OF APPLICATIONS

20 USC 3996.

"SEC. 326. An applicant within a State that desires to receive a grant under this chapter shall submit an application prepared in accordance with section 325 to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 324(b)(1) shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

"APPROVAL OF APPLICATIONS

20 USC 3997.

"SEC. 327. (a) CRITERIA.—The State shall establish criteria for approval of applications under this section. Such criteria shall include—

"(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

"(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

"(3) the expressed level of financial and in-kind commitment from other parties to the program.

"(b) APPROVAL PROCEDURES.—The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

Rural areas.

Urban areas.

Suburban areas.

"(1) rural, urban, and suburban areas; and

"(2) small, medium, and large local educational agencies.

"COMPUTATION OF GRANT AMOUNTS

20 USC 3998.

"SEC. 328. (a) PAYMENTS TO GRANTEES.—

"(1) PAYMENT BY STATE.—The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 327, the Federal share of the cost of the program described in the application.

"(2) AMOUNT.—(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

"(B) In the case of an applicant that receives a waiver under section 325(c), the Federal share for each fiscal year may be as much as 100 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(b) PAYMENTS TO STATES.—Except as provided in subsection (c), each State shall receive under this part the greater of—

"(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

"(2) \$225,000.

“(c) **REDUCTION FOR INSUFFICIENT FUNDING.**—If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b), the amount of such grants shall be ratably reduced.”.

(b) CONFORMING AMENDMENTS.—

(1) **TITLE HEADING.**—The title heading of such title is amended to read as follows:

“TITLE III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING”.

(2) **REFERENCES.**—Part A of such title (as redesignated by subsection (a)) is amended by striking out “title” each place such term appears and inserting in lieu thereof “part”.

20 USC 3981 *et seq.*

CHAPTER 5—EDUCATIONAL PARTNERSHIPS

Educational Partnerships Act of 1988.
20 USC 5031.

SEC. 6041. SHORT TITLE.

This chapter may be cited as the “Educational Partnerships Act of 1988”

SEC. 6042. PURPOSE.

20 USC 5032.

It is the purpose of this chapter to encourage the creation of alliances between public elementary and secondary schools or institutions of higher education and the private sector in order to—

(1) apply the resources of the private and nonprofit sectors of the community to the needs of the elementary and secondary schools or institutions of higher education, as the case may be, in that community designed to encourage excellence in education;

(2) encourage business to work with educationally disadvantaged students and with gifted students;

(3) apply the resources of communities for the improvement of elementary and secondary education or higher education, as the case may be; and

(4) enrich the career awareness of secondary or postsecondary school students to exposures to the private sector and their work.

SEC. 6043. PROGRAM AUTHORIZED.

20 USC 5033.

(a) **GRANTS TO ELIGIBLE PARTNERSHIPS.**—The Secretary may make grants to eligible partnerships to pay the Federal share of the costs of the activities described in section 6144.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$10,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6044. AUTHORIZED ACTIVITIES.

20 USC 5034.

An eligible partnership may use payments received under this chapter in any fiscal year for—

(1) model cooperative programs designed to apply the resources of the private and nonprofit sectors of the community to

the elementary and secondary schools of the local educational agency or institutions of higher education in that community;

(2) projects designed to encourage business concerns and other participants in the eligible partnership, to work with educationally disadvantaged students and with gifted students in the elementary and secondary schools of local educational agencies or institutions of higher education;

(3) projects designed to apply the resources of the community to the elementary and secondary schools of the local educational agency or institutions of higher education in that community to improve the education of students in such schools;

(4) projects which are designed to address the special educational needs of gifted and talented children in the elementary and secondary schools of such agencies which are conducted with the support of the private sector;

(5) projects designed to enrich the career awareness of secondary or postsecondary school students through exposure to officers and employees of business concerns and other agencies and organizations participating in the eligible partnership for education;

(6) projects for statewide activities designed to carry out the purpose of this chapter, including the development of model State statutes for the support of cooperative arrangements between the private sector and the elementary and secondary schools or institutions of higher education within the State;

(7) special training projects for staff designed to develop skills necessary to facilitate cooperative arrangements between the private and nonprofit sectors and the elementary and secondary schools of local educational agencies or institutions of higher education;

(8) academic internship programs, including where possible academic credit, involving activities designed to carry out the purpose of this chapter; and

(9) projects encouraging tutorial and volunteer work in the elementary and secondary schools of local education agencies or institutions of higher education by personnel assigned from business concerns and other participants in the eligible partnership.

20 USC 5035.

Grants.

SEC. 6045. APPLICATION.

(a) **IN GENERAL.**—An eligible partnership which desires to receive a grant under this chapter shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this chapter is sought;

(2) provide assurances that the eligible partnership will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources;

(3) provide assurances that the eligible partnership will take such steps as may be available to it to continue the activities for which the eligible partnership is making application after the period for which assistance is sought;

(4) provide assurances—

(A) that the educational partnership will disseminate information on the model program for which assistance is sought; and

(B) that not more than 1 percent of the grant in any fiscal year may be expended for the purpose described in subparagraph (A); and

(5) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this chapter.

JOINT APPLICATION.—A consortium of eligible alliances may make a joint application under the provisions of subsection (a) of this section.

6046. APPROVAL OF APPLICATION.

20 USC 5036.

IN GENERAL.—The Secretary shall approve applications in accordance with uniform criteria established by the Secretary.

RESTRICTION.—The Secretary may not approve an application if the State educational agency for the State in which the institution is located, or, in the case of a consortium of institutions, in which any institution in the consortium is located, notifies the Secretary that the application is inconsistent with State plans for elementary and secondary education in the State.

6047. COMPUTATION OF GRANT AMOUNTS.

20 USC 5037.

COMPUTATION.—

(1) **IN GENERAL.**—The Secretary shall pay to each eligible partnership having an application approved under section 6046 the Federal share of the cost of the activities described in the application.

(2) **FEDERAL SHARE.**—The Federal share shall be—

(A) 90 percent for the first year for which an eligible partnership receives assistance under this chapter;

(B) 75 percent for the second such year;

(C) 50 percent for the third such year; and

(D) 33½ percent for the fourth such year.

(3) **NON-FEDERAL SHARE.**—The non-Federal share of payments under this chapter may be in cash or in kind fairly evaluated, including planned equipment or services.

RESTRICTION.—The total amount of funds paid under this chapter during any fiscal year to eligible partnerships in any single year may not be greater than the greater of—

(1) an amount equal to 15 percent of the funds appropriated under this chapter for that fiscal year; or

(2) \$1,000,000.

6048. EVALUATION AND DISSEMINATION.

20 USC 5038.

ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of grants made under this chapter to determine—

(1) the type of activities assisted under this chapter;

(2) the impact upon the educational characteristics of the elementary and secondary schools and institutions of higher education from activities assisted under this chapter;

(3) the extent to which activities assisted under this chapter have improved or expanded the nature of support for elementary and secondary education in the community or in the State; and

(4) a list of specific activities assisted under this chapter which show promise as model programs to carry out the purpose of this chapter.

(b) **DISSEMINATION OF INFORMATION.**—The Secretary shall disseminate to State and local educational agencies and other participants in the eligible alliance program information relating to the activities assisted under this chapter.

20 USC 5039.

SEC. 6049. DEFINITIONS.

As used in this chapter—

(1) The term “elementary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term “eligible partnership” means—

(A) a local educational agency or an institution of higher education, or both, and

(B) business concerns, community-based organizations, nonprofit private organizations, museums, libraries, educational television and radio stations, and if the State agrees to participate, appropriate State agencies.

(3) The term “institution of higher education” has the same meaning given that term by section 481(a)(1) of the Higher Education Act of 1965.

(4) The term “secondary school” has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

CHAPTER 6—STAR SCHOOLS PROGRAM

Grants.

SEC. 6051. PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools
Program
Assistance Act.

“TITLE IX—STAR SCHOOLS PROGRAM**“SHORT TITLE**

“SEC. 901. This title may be cited as the ‘Star Schools Program Assistance Act’.

“STATEMENT OF PURPOSE

“SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

“PROGRAM AUTHORIZED

“SEC. 903. (a) **GENERAL AUTHORITY.**—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of tele-

communications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

“(b) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There is authorized to be appropriated \$100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

“(2) No appropriation in excess of \$20,000,000 may be made in fiscal year 1988, and no appropriation in excess of \$37,500,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

“(3) Funds appropriated pursuant to this subsection shall remain available until expended.

“(c) **LIMITATIONS.**—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed \$10,000,000.

“(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than \$20,000,000.

“(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

“(3) Not less than 50 percent of the funds available in any fiscal year under this Act shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of this Act.

“(d) **FEDERAL SHARE.**—(1) The Federal share for any fiscal year shall be 75 percent.

“(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

“ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

“SEC. 904. (a) **GENERAL RULE.**—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

“(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of this Act; or

“(2) a partnership which includes 3 or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

“(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of this Act or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of this Act,

Indians.

“(B) a State educational agency, or a State higher education agency,

“(C) an institution of higher education,

“(D) a teacher training center which—

“(i) provides teacher preservice and inservice training, and

“(ii) receives Federal financial assistance or has been approved by a State agency, or

“(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

“(ii) a private organization with such experience, or

“(iii) a public broadcasting entity with such experience.

“(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

“APPLICATIONS

“SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

“(b) CONTENTS OF APPLICATION.—Each such application shall—

“(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

“(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

“(B) microwave, fiber optics, cable, and satellite transmission equipment;

“(C) reception facilities;

“(D) satellite time;

“(E) production facilities;

“(F) other telecommunications equipment capable of serving a wide geographic area;

“(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of this Act in using the facilities and equipment for which assistance is sought; and

“(H) the development of educational programming for use on a telecommunications network;

“(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

“(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

“(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

“(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

“(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of this Act;

“(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this Act;

“(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

“(9) provide such additional assurances as the Secretary may reasonably require.

“(c) **APPROVAL OF APPLICATION; PRIORITY.**—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

“(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

“(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

“(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of this Act, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

“(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

“(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

“(6) the eligible telecommunications partnership will serve a multistate area; and

“(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

“(d) **GEOGRAPHIC DISTRIBUTION.**—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

**"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR
SCHOOLS PROGRAM**

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this Act shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

SEC. 6052. APPLICABILITY PROVISION.

The amendment made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 7—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Grants.

Subchapter A—Assistance to Address School Dropout Problems

School Dropout Demonstration Assistance Act of 1988.

SEC. 6061. SHORT TITLE.

20 USC 5051.

This subchapter may be cited as the “School Dropout Demonstration Assistance Act of 1988”.

SEC. 6062. PURPOSE.

20 USC 5052.

The purpose of this subchapter is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

- (1) effective programs to identify potential student dropouts and prevent them from dropping out;
- (2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;
- (3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and
- (4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

SEC. 6063. AUTHORIZATION OF APPROPRIATIONS.

20 USC 5053.

There are authorized to be appropriated to carry out this subchapter \$50,000,000 for the fiscal year 1988.

SEC. 6064. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

20 USC 5054.

(a) **ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.**—From the amount appropriated under section 6063 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

- (1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.
- (2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.
- (3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and con-

sortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

(2) Educational partnerships under this subsection shall include—

(A) a local educational agency; and

(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6065 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this subchapter.

(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of

amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(f) **FEDERAL SHARE.**—(1) The Federal share of a grant under this subchapter may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subchapter, and

(B) 75 percent of such cost for the second such year.

(2) The remaining cost of a project that receives assistance under this subchapter may be paid from any source other than funds made available under this subchapter, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this subchapter.

(3) The share of payments from sources other than funds made available under this subchapter may be in cash or in kind fairly evaluated, including plant, equipment or services.

SEC. 6065. APPLICATION.

20 USC 5055.

(a) **IN GENERAL.**—(1) A grant under this subchapter may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Applications shall be for a 1-year period.

(b) **CONTENTS OF APPLICATION.**—Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 4141(b)(5) of the Drug-Free Schools and Communities Act of 1986; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) include a plan for the development and implementation of a project including activities designed to carry out the purposes of this subchapter, such as—

(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

(B) addressing the special needs of school-age parents;

(C) disseminating information to students, parents, and the community related to the dropout problem;

(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

(G) establishing annual procedures for—

(i) evaluating the effectiveness of the project; and

(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) **PRIORITY.**—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6064(a).

(d) **SPECIAL CONSIDERATION.**—The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

20 USC 5056.

SEC. 6066. AUTHORIZED ACTIVITIES.

(a) **IN GENERAL.**—Grants under this subchapter shall be used to carry out plans set forth in applications approved under section 6065. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

(4) the use of resources of the community, including contracting with public or private entities or community-based organiza-

Contracts.

tions of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school staff on strategies and techniques designed to—

(A) identify children at risk of dropping out;

(B) intervene in the instructional program with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

(11) the study of the relationship between handicapping conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this subchapter.

(b) **ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.**—Grants under this subchapter may be used by educational partnerships for—

(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(2) internship, work study, or apprenticeship programs;

(3) summer employment programs;

(4) occupational training programs;

(5) career opportunity and skills counseling;

(6) job placement services;

(7) the development of skill employment competency testing programs;

(8) special school staff training projects; and

(9) any other activity described in subsection (a).

SEC. 6067. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

(a) **DISTRIBUTION OF ASSISTANCE.**—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this subchapter—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 6064(a);

Drugs and drug abuse.

Communications and telecommunications.

20 USC 5057.

(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

(b) **ADMINISTRATIVE COSTS.**—Not more than 5 percent of any grant made under this subchapter may be used for administrative costs.

Subchapter B—Assistance to Provide Basic Skills Improvement

Secondary
Schools Basic
Skills
Demonstration
Assistance Act of
1988.
Grants.
Disadvantaged
persons.
20 USC 5061.
20 USC 5062.

SEC. 6071. SHORT TITLE.

This subchapter may be cited as the “Secondary Schools Basic Skills Demonstration Assistance Act of 1988”.

SEC. 6072. PURPOSE.

It is the purpose of this subchapter to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 5063.

SEC. 6073. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter \$200,000,000 for fiscal year 1988.

20 USC 5064.

SEC. 6074. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) **GENERAL AUTHORITY.**—From the amount appropriated under section 6073 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this subchapter.

(b) **COMMUNITY-BASED ORGANIZATIONS RULE.**—Each local educational agency may carry out the activities described in section 6075 in cooperation with community-based organizations.

(c) **ELIGIBLE STUDENTS.**—Secondary school students who meet the requirements of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this subchapter.

20 USC 5065.

SEC. 6075. AUTHORIZED ACTIVITIES.

(a) **IN GENERAL.**—Funds made available under this subchapter may be used—

(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

(2) to develop innovative approaches—

(A) for surmounting barriers that make secondary school programs under this subchapter difficult for certain stu-

dents to attend and difficult for secondary schools to administer, such as scheduling problems; and

(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

(5) to use the resources of the community to assist in providing services to the target population;

(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subchapter and under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

(b) **LIMITATION.**—Not more than 25 percent of amounts available to a local educational agency under this subchapter may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

SEC. 6076. APPLICATION.

20 USC 5066.

(a) **IN GENERAL.**—(1) A grant under this subchapter may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

(2) Applications shall be for a 1-year period.

(b) **CONTENTS OF APPLICATION.**—Each such application shall include—

(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this subchapter);

(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this subchapter;

(6) a statement of the methods which will be used—

(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this subchapter; and

(B) an assurance that services will be provided under this subchapter to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

(8) a description of the manner in which the agency will provide for equitable participation of private school students under provisions applicable to chapter 1 of title I of the Elementary and Secondary Education Act of 1965, relating to participation of children enrolled in private schools;

(9) a description of the methods by which the applicant will coordinate programs under this subchapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

(c) **APPROVAL OF APPLICATIONS.**—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

(A) demonstrate the greatest need for services assisted under this subchapter on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

(d) **ADMINISTRATIVE COSTS.**—Not more than 5 percent of any grant under this subchapter may be used for administrative costs.

Subchapter C—General Provisions

Urban areas.
Rural areas.

20 USC 5071.

SEC. 6081. GENERAL PROVISIONS.

(a) **DEFINITION OF SCHOOL DROPOUT.**—The Secretary shall, not later than 60 days after the date of the enactment of this chapter, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups.

(b) **TIMELY AWARD OF GRANTS.**—To the extent possible, for any fiscal year the Secretary shall award grants to local educational

agencies and educational partnerships under this subchapter not later than June 30 preceding such fiscal year.

(c) **GRANTS MUST SUPPLEMENT OTHER FUNDS.**—A local educational agency receiving Federal funds under this chapter shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this chapter for activities described in subchapter A or subchapter B of this chapter, as the case may be.

(d) **EVALUATION.**—The Secretary shall evaluate programs operated with funds received under this chapter, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991. Reports.

(e) **COORDINATION AND DISSEMINATION.**—The Secretary shall require local educational agencies receiving grants under this chapter to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

(f) **AUDIT.**—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this chapter that are pertinent to the sums received and disbursed under this chapter. Records.

(g) **WITHHOLDING PAYMENTS.**—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6075 or section 6076, the Secretary shall withhold payments under this chapter in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

SEC. 6082. DEFINITIONS.

20 USC 5072.

(a) As used in this title—

(1) The term “community-based organization” means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

(2) The term “basic skills” includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

CHAPTER 8—MISCELLANEOUS

SEC. 6091. DRUG-FREE SCHOOLS PROGRAM.

(a) **WITHIN STATE ALLOCATIONS.**—The second sentence of section 4124 of the Drug-Free Schools and Communities Act of 1986 is amended to read as follows: “From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private, nonprofit schools within such areas.”

20 USC 4624.

(b) **EFFECTIVE DATE.**—(1) The amendment made by subsection (a) of the Act shall take effect October 27, 1986.

20 USC 4624 note.

(2) Notwithstanding paragraph (1), a State educational agency may allot fiscal year 1987 funds to local and intermediate edu-

cational agencies and consortia under section 4124(a) of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-aged population.

Subtitle B—Technology and Training

Training
Technology
Transfer Act of
1988.
20 USC 5091.

CHAPTER 1—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

SEC. 6101. SHORT TITLE.

This chapter may be cited as the “Training Technology Transfer Act of 1988”.

20 USC 5092.

SEC. 6102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Federal agencies, particularly the Department of Defense, have made extensive investments of public funds in the development of education and training software;

(2) much knowledge and education and training software, especially computer programs and videodisc systems, is directly transferable to the private sector or could be transferable to the private sector after conversion;

(3) the transfer of education and training software to the public and private sector could properly augment existing Federal programs for the training of new industrial workers or the retraining of workers whose jobs have been disrupted because of technological developments, foreign trade, and changes in consumer requirements; and

(4) the transfer of education and training software to the public and private sector would be especially beneficial to small business concerns which lack the resources to develop such software independently.

(b) PURPOSE.—Therefore, it is the purpose of this chapter to facilitate the transfer of education and training software from Federal agencies to the public and private sector and to State and local governments and agencies thereof, including educational systems and educational institutions, in order to support the education, training, and retraining of industrial workers, especially workers in small business concerns.

20 USC 5093.

SEC. 6103. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) OFFICE ESTABLISHED.—There is established in the Office of Educational Research and Improvement of the Department of Education an Office of Training Technology Transfer. The Office shall be headed by a Director, who shall be appointed by the Secretary of Education. The Director shall be compensated at the rate provided for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(b) PERSONNEL.—To carry out this chapter, the Director may appoint personnel in accordance with the civil service laws, and may compensate such personnel in accordance with the General Schedule under section 5332 of title 5, United States Code.

20 USC 5094.

SEC. 6104. FUNCTIONS OF THE OFFICE.

(a) CLEARINGHOUSE REQUIRED.—(1) The Director shall compile and maintain a current and comprehensive clearinghouse of all knowl-

edge and education and training software developed or scheduled for development by or under the supervision of Federal agencies. The clearinghouse shall include, with respect to each item of education and training software listed in the clearinghouse—

(A) a complete description of such software, including the purpose, content, intended academic level or competency level, date of development, imbedded learning and instructional strategies, and mode of presentation of such software;

(B) a description of each type of computer hardware which is compatible with such software and of any other equipment required to use such software;

(C) a specification of any patent, copyright, or proprietary interest affecting the copying, conversion, or transfer of such software; and

(D) information with respect to any conversion or transfer of such software pursuant to this chapter.

(2) In compiling the clearinghouse required by this subsection, the Director shall—

(A) consult with and utilize fully the resources of all Federal agencies engaged in the collection and dissemination of information concerning education and training software; and

(B) request the participation and cooperation of entities in the legislative and judicial branches of Government.

(b) **DISSEMINATION REQUIRED.**—(1) The Director shall disseminate widely and on a regular basis the clearinghouse required by subsection (a) and any revisions thereof in order to enable all potential commercial users and public interest users of education and training software to receive ample notice that Federal agencies have developed such software, or have scheduled such software for development. In carrying out the preceding sentence, the Director shall—

(A) utilize all interagency and intergovernmental communication mechanisms, including the National Center for Research in Vocational Education, the National Occupational Information Committee, State educational agencies, State occupational information coordinating committees, State job training coordinating councils, private industry councils, State economic development agencies, regional educational laboratories, and the Small Business Administration; and

(B) encourage the participation of independent private sector organizations, including organizations representing State and local educational agencies, educational institutions, technical and professional organizations, and trade associations.

(2) The Director shall develop and distribute, in conjunction with the dissemination of the clearinghouse required under subsection (a), detailed instructions and procedures for securing copies, including such rights thereto as may be required, of education and training software listed in such clearinghouse and guidelines for cooperative agreements between commercial users and public interest users under subsection (d).

(c) **CONSULTATION; PUBLIC INTEREST USER.**—(1) The Director shall advise, consult with, and may provide grants to any prospective public interest user of an education and training software listed in the clearinghouse required under subsection (a) and shall assist such user in securing the transfer of such software from the Federal agency which developed such software at a cost to the public interest user based upon the ability of such user to pay for such transfer. In providing such assistance, the Director shall encourage

Grants.

such public interest user to obtain such software by working with the Training Technology Transfer Officer of such agency. If an agency has not established procedures for the transfer of education and training software, the Director shall negotiate the transfer of such software upon application by such user.

Contracts.

(2) The Director, to such extent and in such amounts as provided in advance by appropriation Acts, may enter into contracts with any qualified agency having expertise in the field of education and qualified private sector business concerns for the conversion of education and training software in order to adapt such software to the requirements of a public interest user.

Contracts.

(d) **CONSULTATION; COMMERCIAL USER.**—(1) The Director shall advise and consult with any prospective commercial user of an education and training software listed in the clearinghouse required under subsection (a)(1). The Director may sell or lease such training software, including exclusive or nonexclusive rights in copyrights or patents pertaining thereto, to a commercial user for a price or fee which reflects a reasonable return to the Government.

(2) The Director may waive purchase prices or lease fees for a commercial user of training software, may negotiate reduced purchase prices or lease fees for such commercial user, or may negotiate exclusive sale or lease agreements or other terms favorable to such commercial user if such commercial user agrees to enter into a cooperative agreement with a public interest user or a group of public interest users in accordance with this section. Under the preceding sentence, the Director may not waive such prices or fees, negotiate reduced prices or fees, or negotiate exclusive agreements or favorable terms for a commercial user unless such cooperative agreement—

(A) provides for the conversion of the education and training software by the commercial user in order to meet the specific needs of the public interest user or group of public interest users;

(B) provides that such conversion will be performed without charge to the public interest user or group of users; and

(C) is acceptable to the Director.

(3) In negotiating terms for the sale or lease of education and training software pursuant to subsection (b), the Director shall give preferential consideration to cooperative agreements which—

(A) will result in enhancing the employment potential and potential earnings of the maximum number of individuals;

(B) encourage and promote multiple uses of education and training software converted pursuant to this section by users with similar education needs; and

(C) provide beneficial uses of education and training software for businesses.

(4) Any education and training software converted pursuant to subsection (b) shall be listed in the clearinghouse required by subsection (a)(1) and shall be available for transfer to any other public interest user.

(e) **STUDY REQUIRED.**—(1) The Director shall study the effectiveness of transfers and conversions of education and training software pursuant to this chapter, and shall analyze national needs for methods to convert education and training software which are in addition to the method provided in subsection (d)(2).

Reports.

(2) The Director shall submit to the Congress a report that—

(A) describes the study and analysis conducted as required by paragraph (1); and

(B) contains recommendations of the Director concerning whether the public interest is served through the program of grants and contracts to public interest users to support conversion of education and training software.

(3) The Director shall submit the report required by subparagraph (A) before the expiration of the two-year period beginning on the date of enactment of this Act. Reports.

SEC. 6105. ADMINISTRATIVE PROVISIONS.

20 USC 5095.

(a) IN GENERAL.—In carrying out this chapter, the Director is authorized—

(1) to promulgate such rules, regulations, procedures, and forms as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under the direction and supervision of the Director;

(2) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(3) to enter into agreements with other Federal agencies as may be appropriate;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 1342 of title 31, United States Code;

(5) to request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and

(6) to use the facilities of the Office of Educational Research and Improvement.

(b) SPECIFIC DELEGATION OF CLEARINGHOUSE AND DISSEMINATION FUNCTIONS.—The Director shall enter into interagency agreements with the National Technical Information Service of the Department of Commerce to perform on a reimbursable basis the functions specified in sections 6104(a) and 6104(b) of this Act. Contracts.

SEC. 6106. COORDINATION WITH FEDERAL AGENCIES.

20 USC 5096.

(a) USE OF FEDERAL PROGRAMS.—In carrying out this chapter, the Director shall utilize, to the fullest possible extent, all existing Federal programs to promote the identification, conversion, and transfer of knowledge and education and training software in accordance with this chapter.

(b) EDUCATION AND TRAINING SOFTWARE TRANSFER OFFICER.—The head of each Federal agency which develops knowledge for or uses education and training software shall designate, from the officers and employees of the agency, an education and training software transfer officer. The education and training software transfer officer of an agency shall—

(1) supply information to the Office of Education Software Transfer for inclusion in the clearinghouse;

(2) receive and process inquiries and requests from prospective users of knowledge and education and training software employed by such agency;

(3) promote direct contact between prospective users of knowledge and education and training software and personnel of the agency;

(4) facilitate the prompt transfer for knowledge and education and training software to public interest users; and

(5) refer requests for education and training software from commercial users to the Office of Training Software Transfer for the negotiation of the purchase or lease of such software.

(c) COOPERATION OF FEDERAL AGENCIES.—

Reports.

(1) **IN GENERAL.**—All Federal agencies shall cooperate with the Director in the implementation of this chapter. If the head of a Federal agency finds that such agency is unable to cooperate with the Director for reasons of national security, or for any other reason, such agency head shall report such finding to the Secretary. The Secretary shall report to the Congress by July 1 of each year all such findings received by the Secretary during the preceding 12-month period.

(2) **COOPERATION WITH EXCHANGE CENTER.**—The Director shall cooperate with the Federal Software Exchange Center of the National Technical Information Service to facilitate the transfer of education and training software between Federal agencies.

(3) **AVAILABILITY OF FEDERAL SERVICES, EQUIPMENT, PERSONNEL, AND FACILITIES.**—Upon request of the Director, the head of each Federal agency shall promptly make the services, equipment, personnel, facilities, and information of the agency (including suggestions, estimates, and statistics) available to the Office to the greatest extent practicable.

(d) **EQUITY RULE.**—In carrying out the purposes of this chapter, the Director shall consider special equity concerns, including psychological, physiological, sociological, and socioeconomic factors, which could prevent some persons from benefiting from new technological developments, and shall, to the extent possible, ensure that such persons benefit from software transfer activities under this chapter.

20 USC 5097.

SEC. 6107. DEFINITIONS.

For the purpose of this chapter—

(1) the term “commercial user” means any individual, corporation, partnership, or other legal entity which operates for profit and which uses or intends to use the education and training software of a Federal agency;

(2) the term “community-based organizations” has the same meaning as in section 2704(5) of the Job Training Partnership Act;

(3) the term “conversion” means the process whereby education and training software is modified and revised to meet the needs of a commercial user or a public interest user;

(4) the term “Director” means the Director of the Office of Training Technology Transfer established pursuant to section 6103;

(5) the term “Federal agency” has the meaning given to the term “agency” in section 551(1) of title 5, United States Code;

(6) the term “National Occupational Information Coordinating Committee” means the National Occupational Information Coordinating Committee established under section 422(a) of the Carl D. Perkins Vocational Education Act;

(7) the term "Office" means the Office of Training Technology Transfer established pursuant to section 6103;

(8) the term "private industry council" means a private industry council established under section 102 of the Job Training Partnership Act;

(9) the term "public interest user" means—

(A) any nonprofit entity which—

(i) provides job training, vocational education or other educational services, including public school systems, vocational schools, private preparatory schools, colleges, universities, community colleges, private industry councils, community-based organizations, and State and local governments and agencies thereof; and

(ii) which uses or intends to use the education and training software of a Federal agency; or

(B) any Federal agency which uses or intends to use the education and training software of another Federal agency;

(10) the term "small business concern" has the same meaning as in section 3 of the Small Business Act;

(11) the term "State job training coordinating council" means a State job training coordinating council established under section 122 of the Job Training Partnership Act;

(12) the term "State occupational information coordinating committee" means a State occupational information coordinating committee established under section 422(b) of the Carl D. Perkins Vocational Education Act;

(13) the term "education and training software" means computer software which is developed by a Federal agency to educate and train employees of the agency and which may be transferred to or converted for use by a public interest user or a commercial user and includes software for computer based instructional systems, interactive video disc systems, micro-computer education devices, audiovisual devices, and programmed learning kits, and associated manuals and devices if such manuals and devices are integrally related to a software program;

(14) the term "transfer" means the process whereby education and training software is made available to a commercial user or a public interest user for the training of the employees of such user, with or without the conversion of such software.

CHAPTER 2—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

SEC. 6111. PURPOSE.

20 USC 5101.

It is the purpose of this chapter to assist educational agencies and institutions in developing a technologically literate population through instructional programs in technology education.

SEC. 6112. TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM.

Grants.
20 USC 5102.

(a) **ESTABLISHMENT.**—Subject to the availability of funds for purposes of this chapter, the Secretary of Education shall establish a program of grants to local educational agencies, State educational agencies, consortia of public and private agencies, organizations and institutions, and institutions of higher education to establish not more than 10 demonstration programs in technology education for

secondary schools, vocational educational centers and community colleges.

(b) **USES OF GRANT FUNDS.**—(1)(A) Funds made available under this chapter may be used to develop a model demonstration program for technology education which, to the extent practicable, address the components described in paragraphs (2) through (12).

(B) To the extent feasible, the Secretary shall give priority under subparagraph (A) to model demonstration programs which address the largest number of components described in paragraphs (2) through (12).

(2) Educational course content based on—

(A) an organized set of concepts, processes, and systems that is uniquely technological and relevant to the changing needs of the workplace; and

(B) fundamental knowledge about the development of technology and its effect on people, the environment, and culture.

(3) Instructional content drawn from introduction to technology education courses in 1 or more of the following areas—

(A) communication—efficiently using resources to transfer information to extend human potential;

(B) construction—efficiently using resources to build structures on a site;

(C) manufacturing—efficiently using resources to extract and convert raw or recycled materials into industrial and consumer goods; and

(D) transportation—efficiently using resources to obtain time and place utility and to attain and maintain direct physical contact and exchange among individuals and societal units through the movement of materials, goods, and people.

(4) Assisting students in developing insight, understanding, and application of technological concepts, processes, and systems.

(5) Educating students in the safe and efficient use of tools, materials, machines, processes, and technical concepts.

(6) Developing student skills, creative abilities, confidence, and individual potential in using technology.

(7) Developing student problem solving and decisionmaking abilities involving technological systems.

(8) Preparing students for lifelong learning in a technological society.

(9) Activity oriented laboratory instruction which reinforces abstract concepts with concrete experiences.

(10) An institute for the purpose of developing teacher capability in the area of technology education.

(11) Research and development of curriculum materials for use in technology education programs.

(12) Multidisciplinary teacher workshops for the interfacing of mathematics, science, and technology education.

(13) Optional employment of a curriculum specialist to provide technical assistance for the program.

(14) Stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology.

(15) A combined emphasis on “know-how” and “ability-to-do” in carrying out technological work.

(c) **LIMITATION ON FEDERAL ASSISTANCE.**—Federal assistance to any program or project under this chapter shall not exceed 65 percent of the cost of such program in any fiscal year. Not less than

percent of the cost of such program shall be in the form of private or contributions. Non-Federal contributions may be in cash or in kind, fairly evaluated, including facilities, overhead, personnel, and equipment.

6113. APPLICATIONS FOR GRANTS.

20 USC 5103.

IN GENERAL.—A local educational agency, a State educational agency, a consortium of public and private agencies, organizations, institutions, or an institution of higher education which desires to receive a grant under this chapter shall submit an application to the Secretary. Applications shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe.

CONTENTS OF APPLICATION.—An application shall include—

(1) a description of a demonstration program designed to carry out the purpose described in section 6111;

(2) an estimate of the cost for the establishment and operation of the program;

(3) a description of policies and procedures for the program that will ensure adequate evaluation of the activities intended to be carried out under the application;

(4) assurances that Federal funds made available under this chapter will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would be in the absence of such Federal funds be made available or the uses specified in this chapter, and in no case supplant such State or local funds;

(5) a provision for making such reports, in such form and containing such information, as the Secretary may require; and

(6) a description of the manner in which programs under this chapter will be coordinated, to the extent practicable, with programs under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other Acts related to the purposes of this chapter.

GEOGRAPHIC DISTRIBUTION.—In making grants under this chapter the Secretary shall consider the equitable geographic distribution of such grants.

6114. NATIONAL DISSEMINATION OF INFORMATION.

20 USC 5104.

The Secretary shall disseminate the results of the programs and projects assisted under this chapter in a manner designed to improve the training of teachers, other instructional personnel, counselors, and administrators.

6115. AUTHORIZATION OF APPROPRIATIONS.

20 USC 5105.

There are authorized to be appropriated \$2,000,000 for fiscal year 1989 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

6116. DEFINITIONS.

20 USC 5106.

As used in this chapter, the term “technology education” means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

CHAPTER 3—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

20 USC 5111.

SEC. 6121. REPLICATION MODELS FOR TECHNICAL EDUCATION PROGRAMS DESIGNED TO IMPROVE THE QUALITY OF EDUCATION FOR AMERICA'S TECHNICALLY TRAINED WORKFORCE.

(a) **IN GENERAL.**—The Secretary, through the National Diffusion Network established under section 583(c) of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851), in addition to its duties under such Act—

(1) shall gather, organize, and disseminate information on innovative programs at institutions of postsecondary education and secondary schools designed to—

(A) enhance the development of technical skills needed to improve the competitiveness of American industry;

(B) encourage the development of higher skills among individuals facing or likely to face job dislocation;

(C) encourage the acquisition of basic literacy skills among youth as well as adults; or

(D) involve the business community in the planning and offering of employment opportunities to the trained workforce;

(2) shall gather, organize, and disseminate information on consultative and collaborative efforts by elementary education, secondary education, postsecondary education, business, labor, local, State and Federal governments designed to—

(A) improve the efficiency, productivity, and competitiveness of American business; or

(B) enhance the international competitiveness of American business (such as international trade education and foreign language training for business);

(3) in carrying out the activities described in paragraphs (1) and (2), shall produce a catalog of exemplary consultative and collaborative efforts which have the highest probability of being replicated; and

(4) may provide technical assistance to any institution or entity to facilitate the gathering of information for replication models.

(b) **CONFORMING RULE.**—Any program of replication shall conform to the provisions of subsection (a) if such program—

(1) is being conducted by the National Diffusion Network on the date of the enactment of this chapter; and

(2) has the same purpose as the programs described in such subsection.

CHAPTER 4—VOCATIONAL EDUCATION PROGRAMS

SEC. 6131. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

(a) **IN GENERAL.**—Part C of title III of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2371 et seq.) is amended—

(1) by inserting after the part heading the following:

“Subpart 1—Basic Program”;

(2) by striking out “this part” each place such term appears in sections 321 through 324 and inserting in lieu thereof “this subpart”; and

(3) by adding at the end the following new subpart:

“Subpart 2—Special Program

State and local
governments.

“FINDINGS AND PURPOSE

SEC. 326. (a) FINDINGS.—The Congress finds that—

20 USC 2376.

“(1) technological change, international competition, and the demographics of the Nation’s workforce have resulted in increases in the numbers of experienced adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

“(2) the individuals who are entering and reentering the labor market are less educated, trained, or skilled and are disproportionately employed in low-wage occupations and require additional training, and

“(3) these needs can be met by education and training programs, especially vocational programs, that are responsive to the needs of individuals and the demands of the labor market.

(b) PURPOSE.—It is the purpose of this part to (1) provide financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, including workers who are 55 years of age or older, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that programs are available which are relevant to the labor market needs accessible to all segments of the population.

“AUTHORIZATION OF GRANTS AND USES OF FUNDS

SEC. 327. (a) GRANTS TO STATES.—The Secretary shall make grants in proportion to the amount received under section 101 to States for programs, services, and activities authorized by this part.

20 USC 2377.

(b) STATE ADMINISTRATION.—(1) Grants to States under this part shall be made to the board established under section 111 to serve as grant recipient and catalyst to public-private training partnerships.

(2)(A) Such board shall make awards on the basis of application from educational institutions (e.g. community colleges, vocational schools, service providers under the Job Training Partnership Act (J.T.P.A.), four-year colleges, universities, and community organizations) which link up with one or more private companies in order to train people for jobs in high growth fields.

(B) The board shall establish criteria for application, application review and criteria, and procedures for the awarding of grants under this section.

(3) Business must be actively involved in the planning, designing, implementing, and monitoring of the education and training programs so that they will meet their needs.

(4) Training can include entry level training, employee upgrade, retraining, and customized training.

"(5) Grants shall not be awarded for more than 50 percent of the costs. The remainder must come from the private sector in either cash or related equipment and services which would be at least equivalent to the Federal grant portion.

"(c) **ELIGIBLE PROGRAMS.**—Programs eligible for funding by the State, and designed cooperatively between education institutions and one or more businesses, may include—

"(1) institutional and worksite programs tailored to meet the needs of an industry or group of industries for skilled workers, technicians or managers, or to assist their existing workforce to adjust to changes in technology or work requirements;

"(2) quick-start, customized training for workers in new and expanding industries, or for workers for placement in jobs that are difficult to fill because of a shortage of workers with the requisite skills;

"(3) shared programs between educational institutions and businesses, where a work experience is provided by the business subsequent to the classroom training to reinforce the classroom or workshop training;

"(4) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

"(5) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

"(6) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged; and

"(7) related instruction for apprentices in apprenticeship training programs.

"(d) **REQUIREMENTS.**—In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment to such plan), to assure that programs—

"(1) are designed with the active participation of the State council established pursuant to section 112;

"(2) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional capacity to meet the education and training needs addressed by this part;

"(3) assure the active participation by public and private sector employers and public and private agencies working with programs of employment and training and economic development; and

"(4) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

"COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

"**SEC. 328. (a) REQUIREMENTS FOR INCLUSION IN STATE PLAN.**—Each State receiving grants under this part shall include in the State plan

Women.
Aged persons.
Handicapped
persons.
Disadvantaged
persons.

ethods and procedures for coordinating vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

(b) CONSULTATION WITH STATE JOB TRAINING COORDINATING COUNCIL.—(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor's coordination and special services plan required by section 121 of the Job Training Partnership Act.

(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative agency established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for dislocated workers in need of such assistance."

(2) The table of contents at the beginning of such Act is amended—

(1) by inserting after the item relating to part C the following:

"Subpart 1—Basic Program"; and

(2) by inserting after the item relating to section 323 the following:

"Subpart 2—Special Program"

Sec. 326. Findings and purpose.

Sec. 327. Authorization of grants and uses of funds.

Sec. 328. Coordination with the Job Training Partnership Act."

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Subparagraph (A) of section 3(b)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows:

20 USC 2302.

"(3)(A)(i) There are authorized to be appropriated \$35,000 for the fiscal year 1985, such sums as may be necessary for each of the fiscal years 1986 and 1987, and \$25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 1 of part C of title III, relating to the basic program for adult training, retraining, and employment development.

"(ii) There are authorized to be appropriated \$25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 2 of such part, relating to the special program for adult training, retraining, and employment development."

(2) Subparagraph (B) of such section is amended by striking out subparagraph (A)" and inserting in lieu thereof "subparagraph (i)".

C. 6132. AUTHORIZATION OF ADDITIONAL USES OF VOCATIONAL EDUCATION FUNDS.

Section 251(a) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341) is amended—

(1) by striking out "and" at the end of paragraph (23);

(2) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

“(25) pre-employment skills training; and
“(26) school-to-work transition programs.”.

20 USC 2411
note.

SEC. 6133. EDUCATION FOR EMPLOYMENT DEMONSTRATION PROGRAM.

From the sums available to the Secretary for national programs under the Carl D. Perkins Vocational Education Act, the Secretary shall conduct a demonstration program with secondary school students designed to provide participating students with the skills needed for employment or further education by forming partnerships with business and industry for purpose of incorporating into school curriculums—

- (1) practical applications of academic subjects;
- (2) career exploration;
- (3) instruction relating to job seeking skills, career choices, and use of information relating to the labor market; and
- (4) a school monitored work experience program, designed to equip each high school graduate with a resume as well as a diploma.

20 USC 2393.

SEC. 6134. INDUSTRY-EDUCATION PARTNERSHIP AUTHORIZATION.

(a) **PROGRAM AUTHORIZED.**—Section 343 of the Carl D. Perkins Vocational Education Act is amended by adding at the end thereof the following new subsection:

“(d)(1) Funds made available pursuant to section 3(b)(5)(B) of this Act may be used, in accordance with this part, to provide vocational education to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

“(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.”.

20 USC 2302.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 3(b)(5) of such Act is amended—

- (1) by inserting “(A)” after the paragraph designation; and
- (2) by adding at the end thereof the following new subparagraph:

“(B) There are authorized to be appropriated an additional \$10,000,000 for each of the fiscal years 1988 and 1989 to carry out part E of title III, for workers described in section 343(d).

20 USC 2411
note.

SEC. 6135. DEMONSTRATION PROGRAM FOR TECHNOLOGICAL LITERACY.

(a) **ESTABLISHMENT.**—The Secretary shall establish demonstration programs in vocational training centers and community colleges for purposes of providing modular training in basic skills with the objective of rendering participants technologically literate. Such programs shall—

- (1) stress techniques and methods that offer basic remedial skills in conjunction with training in automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology; and
- (2) be designed to foster flexibility and assist workers in meeting the challenge of a changing workplace.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,000,000 for fiscal year 1988 for purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

CHAPTER 5—ACCESS DEMONSTRATION PROGRAMS

Rural areas.

SEC. 6141. PURPOSE.

20 USC 5121.

It is the purpose of this chapter to support training programs for secondary school personnel, including guidance counselors, in order to increase the opportunities of secondary school students in rural sections of the Nation for continued education.

SEC. 6142. PROGRAM AUTHORIZED.

20 USC 5122.

(a) **GRANTS TO ELIGIBLE ENTITIES.**—The Secretary may make grants to institutions of higher education, private nonprofit agencies and organizations, including regional educational laboratories, public agencies, State educational agencies, or combinations thereof within particular regions of the United States to support the development of training programs for secondary school personnel, including guidance counselors. The Secretary may not make a grant under the preceding sentence to any nonpublic agency unless such agency has extensive experience in providing educational assistance to State and local educational agencies.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 for fiscal year 1988 for purposes of carrying out this chapter.

SEC. 6143. APPLICATIONS.

20 USC 5123.

(a) **SUBMISSION OF APPLICATIONS.**—An eligible entity which desires to develop and operate a program described in section 6142(a) shall submit an application to the Secretary.

(b) **REVIEW OF APPLICATIONS.**—Each application submitted under subsection (a) shall be reviewed by peers, including educators and researchers, to determine the quality of the proposed program and its relationship to the demonstrated needs of the region to be served.

(c) **SOLICITATION OF ALTERNATIVE PROPOSALS.**—If, based upon a review under subsection (b), the Secretary determines that a proposed program would not best serve the needs of the students of the region to be served, the Secretary may solicit proposals from other eligible entities located in the region.

(d) **CONTENT OF APPLICATIONS.**—Each application for assistance under this section shall—

(1) contain assurances that—

(A) the eligible entity shall provide technical assistance to appropriate educational agencies; and

(B) information developed as a result of the applicant's research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(C) all rural students in all States within the region will have access to and information about the access program;

(2) contain a description of—

(A) the rural secondary school population within the region served by the eligible entity, including estimates of the number of high school graduates who—

(i) attend institutions of higher education, including an estimate of the number who attend out-of-state institutions;

(ii) attend trade schools;

(iii) enter military service;

(B) services available within each of the States in the region that exist to provide secondary school students with information and training relating to higher education and self-employment; and

(C) activities provided—

(i) to train designated school personnel to advise and establish community partnership programs; and

(ii) to provide technical assistance; and

(3) demonstrate that—

(A) the eligible entity has engaged in sufficient study and analysis to ensure that the services to be offered by the proposed program will increase the number of secondary school students entering institutions of higher education and increase their awareness of and opportunities for financial assistance;

(B) In the case of an eligible entity other than a State educational agency or local educational agency, State and local educational agencies were involved in planning the proposed programs and that services available from such agencies are incorporated into the proposed program; and

(C) the program will probably be funded by State or other sources after the expiration of funding under this chapter.

(e) REPORT.—

(1) PROGRAM EFFECT.—The Office of Educational Research and Improvement shall submit a report to the Congress on the effect of programs funded under this chapter, including recommendations of the eligible entities.

(2) The report required by paragraph (1) shall be submitted not later than November 30, 1989.

20 USC 5124.

SEC. 6144. DEFINITIONS.

As used in this chapter:

(1) The term “regional educational laboratory” means a regional educational laboratory supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i)).

(2) The term “eligible entity” means any entity or combination of entities described in section 6142(a).

Subtitle C—Higher Education

CHAPTER 1—STUDENT LITERACY CORPS

SEC. 6201. STUDENT LITERACY CORPS.

Title I of the Higher Education Act of 1965 is amended by adding the following new part at the end thereof:

“PART D—STUDENT LITERACY CORPS

“SEC. 141. PURPOSE.

“It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

Grants.
Loans.

20 USC 1018.

C. 142. LITERACY CORPS PROGRAM.

20 USC 1018a.

From the amount appropriated pursuant to section 146 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 2 years to carry out literacy corps programs.

C. 143. USES OF FUNDS.

20 USC 1018b.

(a) **IN GENERAL.**—Funds made available under this part may be used for—

“(1) grants to institutions of higher education for—

“(A) the costs of participation of institutions of higher education in the literacy corps program for which assistance is sought; and

“(B) stipends for student coordinators engaged in the literacy corps program for which assistance is sought; and

“(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 145.

(b) **LIMITATIONS.**—(1) No grant under this part to an institution of higher education may exceed \$50,000.

(2) No institution of higher education may expend more than \$50,000 of a grant made under this part in the first year in which the institution receives such a grant.

C. 144. APPLICATIONS.

20 USC 1018c.

(a) **APPLICATION REQUIRED.**—Each institution of higher education desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing information accompanied by such information as the Secretary may reasonably require.

(b) **CONTENTS OF APPLICATION.**—Each such application shall—

“(1) contain assurances that the institution will use the grant in accordance with section 143;

“(2) contain adequate assurances that—

“(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

“(B) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 6 hours of voluntary, uncompensated service each week of the academic term in a public community agency as a tutor in such agency's educational or literacy program;

“(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

“(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals; and

“(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subtitle, in community service activities, including—

“(A) the use of a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for work study

for community service learning under section 443(b)(2)(A);
or

“(B) the conduct of a cooperative education program; and
“(4) contain such other assurances as the Secretary may reasonably require.

“(c) **WAIVER.**—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

“(1)(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

“(B) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part; and

“(2) the institution will use a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for community service learning programs pursuant to section 443(b)(2)(A) of that Act if the institution receives an allotment under such part C.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

20 USC 1018d.

“SEC. 145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

“To the extent that funds are available therefor pursuant to section 146, the Secretary may, directly or by way of grant, contract, or other arrangement—

“(1) provide technical assistance to grant recipients under this part;

“(2) collect and disseminate information with respect to programs assisted under this part; and

“(3) evaluate such programs and issue reports on the results of such evaluations.

Reports.

20 USC 1018e.

“SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out the provisions of this part \$10,000,000 for fiscal year 1988, and \$10,000,000 for each succeeding fiscal year thereafter ending prior to October 1, 1991, except that no funds are authorized to be appropriated for this part for more than 2 fiscal years.

20 USC 1018f.

“SEC. 147. DEFINITIONS.

“For the purpose of this part—

“(1) the term ‘public community agency’ means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans;

“(2) the term ‘institution of higher education’ has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

“(3) the term ‘Secretary’ means the Secretary of Education.”

CHAPTER 2—SPECIAL RESEARCH FACILITIES

SEC. 6211. AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY, AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM.

Title VII of the Higher Education Act of 1965 is amended by adding new part J:

“PART J—AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM

“PROGRAM AUTHORITY

“SEC. 795. (a) PURPOSE.—It is the purpose of this section to help 20 USC 1132j.
revitalize college and university academic research programs that specialize in agricultural, strategic metals and minerals, energy, forestry and wood products, and oceanic research by assisting colleges and universities in repair and renovation of their research laboratories and other research facilities and upgrading or replacing outmoded research equipment and instrumentation currently in use at such facilities for agricultural, strategic metals, minerals, energy, forestry, and oceans research.

“(b) FINANCIAL ASSISTANCE AUTHORIZED.—The Secretary shall, from the sums available to carry out this section in any fiscal year, establish and carry out a new College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceanic research that will provide assistance for the replacement, repair, or renovation of such institutions' obsolete laboratories, other research facilities, and outmoded equipment and instrumentation. No funds made available under this section may be used for the construction of new facilities.

“(c) PROGRAM REQUIREMENTS.—The College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceans shall be carried out through projects which involve the replacement, repair, or renovation of specific research facilities and research equipment or instrumentation at colleges and universities. Funds shall be awarded competitively, on the basis of specific proposals submitted by colleges and universities, in accordance with regulations prescribed by the Secretary. The Secretary shall consult with the Secretaries of Agriculture, Interior, Energy, and Commerce and shall obtain their recommendations regarding final proposal funding should they wish to provide such. In no case should this language be construed as granting these Secretaries final authority over funding or the right to hold up funding of acceptable projects.

Regulations.

“(d) MATCHING REQUIREMENTS.—Any participating college or university must provide an amount not exceeding 50 percent of the costs involved from other non-Federal public or private sources.

“(e) SELECTION CRITERIA.—The criteria for making an award to any college or university under this part, shall include—

“(1) the quality of the research and training to be carried out in the facility or facilities involved;

“(2) the congruence of the institution's research activities to be supported with funds awarded under this part with the

future research needs of the Nation, especially as they relate to improving the Nation's trade and competitiveness position;

"(3) the contribution which the project will make toward meeting national, regional, and State research and related training needs, especially as those needs are related to improving the Nation's trade and competitiveness position; and

"(4) an analysis of the age and condition of existing research facilities and equipment.

"(f) SET-ASIDE.—At least 20 percent of the amount available under this section in any fiscal year shall be available only for awards to colleges and universities that received less than \$10,000,000 in total Federal obligations for research and development (including obligations for the university research laboratory modernization program) in each of the two preceding fiscal years.

"(g) CONSULTATIONS FOR RULEMAKING.—In prescribing regulations and conducting the program under this section, the Secretary shall consult with other agencies of the Federal Government concerned with research, including the Departments of Energy, Agriculture, Interior, and Commerce.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to carry out this section."

CHAPTER 3—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT

SEC. 6221. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT.

20 USC 1135d-6.

Section 1047 of title X of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(c) ADDITIONAL AUTHORIZATION.—In addition, there are authorized to be appropriated \$7,500,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years for the purpose of funding new activities, consistent with the purposes of sections 1021 and 1031, which are specifically aimed at increasing the participation of minority students in scientific and engineering research careers."

CHAPTER 4—TECHNOLOGY TRANSFER CENTERS

SEC. 6231. TECHNOLOGY TRANSFER CENTERS.

Title XII of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"TECHNOLOGY TRANSFER CENTERS

"SEC. 1211. (a)(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated \$15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

"(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

Appropriation
authorization.
20 USC 1145f.

“(ii) to assist in developing incubator facilities to encourage new economic initiatives;

“(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and

Marketing.

“(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region.

Rural areas.
Urban areas.

“(B) The Secretary shall reserve not less than \$3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

“(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

“(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users;

Communications
and
telecommunications

“(B) to build on or develop necessary computer networks and data bases; and

“(C) to utilize or help develop regional and national libraries.

Libraries.

“(b) Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

“(c) Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

“(d) In establishing such centers, the institutions applying shall show in their application—

“(1) how the center will facilitate the economy of the region;

“(2) that the center’s mission is compatible with the economic development plans of States in the region; and

“(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

“(e)(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c), and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements.

Regulations.

“(2) For purpose of paragraph (1), the term ‘existing campus-based research facilities’ includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

“(f) Each such center shall establish a Board to advise the center on policy. Such board shall be—

“(1) representative of the States involved in the region; and

“(2) consist of representatives for urban areas, rural areas, ethnic concerns, business, labor, and education.

“(g)(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period.

Grants.

“(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

Contracts.

“(h) Funding for affiliate centers authorized in subsection (c) shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e).

Public information.

“(i)(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain non-contiguous States.

“(2) The Secretary shall publish the final list of regions and priorities along with the public's comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.”.

CHAPTER 5—LIBRARY TECHNOLOGY ENHANCEMENT

SEC. 6241. LIBRARY TECHNOLOGY ENHANCEMENT.

20 USC 1021.

Section 201(b) of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

Appropriation authorization.

“(5) There are authorized to be appropriated to carry out the purposes of part D an additional \$2,500,000 for fiscal year 1988 and such additional sums as may be necessary for each of the 3 succeeding fiscal years. Activities supported by funds appropriated pursuant to this paragraph shall be activities that will enable libraries to participate more fully in the initiative funded under the Education and Training for American Competitiveness Act of 1987.”.

CHAPTER 6—INTERNATIONAL BUSINESS EDUCATION PROGRAM

SEC. 6261. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION AUTHORIZED.

20 USC 1130a,
1130b.

Title VI of the Higher Education Act of 1965 is further amended—

- (1) by redesignating sections 612 and 613 as sections 613 and 614, respectively; and
- (2) by inserting after section 611 the following new section:

“CENTERS FOR INTERNATIONAL BUSINESS EDUCATION

Grants.

20 USC 1130-1.

“SEC. 612. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

- “(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted,

"(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners, and

Cultural
programs.

"(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses.

"(b) Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries,

"(2) teaching and research materials,

"(3) curriculum planning and development,

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research, and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c)(1) Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, including, but not limited to, intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program; and

“(B) other eligible activities prescribed by the Secretary.

“(d)(1) In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center’s activities and the design of its programs.

“(2) The Center Advisory Council shall include—

“(A) one representative of an administrative department or office of the institution of higher education;

“(B) one faculty representative of the business or management school or department of such institution;

“(C) one faculty representative of the international studies or foreign language school or department of such institution;

“(D) one faculty representative of another professional school or department of such institution, as appropriate;

“(E) one or more representative of local or regional businesses or firms;

“(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

“(G) such other individuals as the institution of higher education deems appropriate.

“(3) In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

“(e)(1) The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

“(2) The Federal share of the cost of planning, establishing and operating centers under this section shall be—

“(A) not more than 90 per centum for the first year in which Federal funds are furnished,

“(B) not more than 70 per centum for the second such year and

“(C) not more than 50 per centum for the third such year and for each such year thereafter.

“(3) The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind assistance.

“(f)(1) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

“(A) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center’s activities and the design of its programs in accordance with subsection (d)(1);

“(B) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies and other professional schools or departments, as appropriate;

“(C) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

“(D) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).”.

SEC. 6262. AUTHORIZATION OF APPROPRIATIONS.

Section 614 of the Act (as redesignated by section 6261 of this Act) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 614. (a) There are authorized to be appropriated \$5,000,000 for the fiscal year 1988 and for each of the 3 succeeding fiscal years to carry out the provisions of section 612. 20 USC 1130b.

“(b) There are authorized to be appropriated \$5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.”.

SEC. 6263. CONFORMING AMENDMENT.

Section 613 of the Act (as redesignated by section 6261 of this Act) is amended by striking out “part” each time it appears and inserting in lieu thereof “section”.

CHAPTER 7—ADDITIONAL HIGHER EDUCATION PROVISIONS

SEC. 6271. RONALD E. MCNAIR POST-BACCALAUREATE ACHIEVEMENT PROGRAM.

Section 417D(d)(6) of the Act is amended by striking out “in no case” and all that follows through the period and inserting in lieu thereof the following: “if— 20 USC 1070d-1b.

“(A) the funds so allocated equal or exceed \$168,800,000 but are less than \$215,000,000 funds allocated to projects authorized under this subsection may not exceed—

“(i) \$1,000,000 in the fiscal year 1988,

“(ii) \$2,000,000 in the fiscal year 1989,

“(iii) \$3,000,000 in the fiscal year 1990, and

“(iv) \$4,000,000 in the fiscal year 1991, and

“(B) the funds so allocated equal or exceed \$215,000,000 funds allocated to projects authorized under this subsection may not exceed \$5,000,000.”.

SEC. 6272. UNITED STATES INSTITUTE OF PEACE.

Section 25 of the Higher Education Technical Amendments Act of 1987 is amended by striking out “Section 1703” and inserting in lieu thereof “Section 1705(b)(3)”. 22 USC 4604.

Economic
Dislocation and
Worker
Adjustment
Assistance Act.
29 USC 1501
note.

Subtitle D—Employment and Training for Dislocated Workers

SEC. 6301. SHORT TITLE.

This title may be cited as the “Economic Dislocation and Worker Adjustment Assistance Act”.

SEC. 6302. AMENDMENT TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—Title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) is amended to read as follows:

“TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

“DEFINITIONS

29 USC 1651.

“SEC. 301. (a) DISLOCATED WORKERS.—(1) For purposes of this title, the term ‘eligible dislocated workers’ means individuals who—

“(A) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

“(B) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

“(C) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

“(D) were self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

“(2) For purposes of this title, the term ‘additional dislocated worker’ means a displaced homemaker as that term is defined in section 4(29) of this Act.

“(3) The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which paragraph (1)(D) applies.

“(b) ADDITIONAL DEFINITIONS.—For the purposes of this title—

“(1) The term ‘labor-management committees’ means committees voluntarily established to respond to actual or prospective worker dislocation, which ordinarily include (but are not limited to) the following—

“(A) shared and equal participation by workers and management;

“(B) shared financial participation between the company and the State, using funds provided under this title, in paying for the operating expenses of the committee;

“(C) a chairperson, to oversee and guide the activities of the committee, (i) who shall be jointly selected by the labor

and management members of the committee, (ii) who is not employed by or under contract with labor or management at the site, and (iii) who shall provide advice and leadership to the committee and prepare a report on its activities;

“(D) the ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

“(E) a formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

“(F) local job identification activities by the chairman and members of the committee on behalf of the affected workers.

“(2) The term ‘local elected official’ means the chief elected executive officer of a unit of general local government in a substate area.

“(3) The term ‘service provider’ means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, or employment services.

“(4) The term ‘substate area’ means that geographic area in a State established pursuant to section 312(a).

“(5) The term ‘substate grantee’ means that agency or organization selected to administer programs pursuant to section 312(b).

“(6) The term ‘State’ means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“ALLOTMENT

“SEC. 302. (a) ALLOTMENT OF FUNDS.—From the funds appropriated pursuant to section 3(c) for any fiscal year, the Secretary shall— 29 USC 1652.

“(1) allot 80 percent of such funds in accordance with the provisions of subsection (b); and

“(2) reserve 20 percent for use under part B of this title, subject to the reservation required by subsection (e) of this section.

“(b) ALLOTMENT AMONG STATES.—(1) Subject to the provisions of paragraph (2), the Secretary shall allot the amount available in each fiscal year under subsection (a)(1) on the basis of the following factors:

“(A) One-third of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

“(B) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term ‘excess number’ means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

“(C) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 15 weeks or more and who reside in

each State as compared to the total number of such individuals in all the States.

“(2) As soon as satisfactory data are available under section 462(e) of this Act, the Secretary shall allot amounts appropriated to carry out part B and this part for any fiscal year to each State so that—

“(A) 25 percent of such amount shall be allotted on the basis of each of the factors described in subparagraphs (A), (B), and (C) of paragraph (1), respectively, for a total of 75 percent of the amount allotted; and

“(B) 25 percent of such amount shall be allotted among the States on the basis of the relative number of dislocated workers in such State in the most recent period for which satisfactory data are available under section 462(e) and, when available, under section 462(f) of this Act.

“(c) **RESERVATIONS FOR STATE ACTIVITIES AND FOR SUBSTATE GRANTEEES IN NEED.**—(1) The Governor may reserve not more than 40 percent of the amount allotted to the State under section 302(a)(1) for—

“(A) State administration, technical assistance, and coordination of the programs authorized under this title;

“(B) statewide, regional, or industrywide projects;

“(C) rapid response activities as described in section 314(b);

“(D) establishment of coordination between the unemployment compensation system and the worker adjustment program system; and

“(E) discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof.

“(2) In addition, the Governor may reserve not more than 10 percent of the amount allotted to the State under section 302(a)(1) for allocation among substate grantees. The amount so reserved shall be allocated on the basis of need and distributed to such grantees not later than 9 months after the beginning of the program year for which the allotment was made.

“(d) **WITHIN STATE DISTRIBUTION.**—The Governor shall allocate the remainder of the amount allotted to the State under this part to substate areas for services authorized in this part, based on an allocation formula prescribed by the Governor. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs. Such information shall include (but is not limited to)—

“(1) insured unemployment data;

“(2) unemployment concentrations;

“(3) plant closing and mass layoff data;

“(4) declining industries data;

“(5) farmer-rancher economic hardship data; and

“(6) long-term unemployment data.

“(e) **RESERVATION FOR THE TERRITORIES.**—Not more than 0.3 percent of the amounts appropriated pursuant to section 3(c) and available under subsection (a)(2) of this section for any fiscal year shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

Plant closings.

"RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS

"SEC. 303. (a) **GENERAL REALLOTMENT AUTHORITY.**—For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallocate to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallocation.

State and local
governments.
29 USC 1653.

"(b) **AMOUNT AVAILABLE FOR REALLOTMENT.**—The amount available for reallocation is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(c) **METHOD OF REALLOTMENT.**—(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 302(b) to allocate among eligible States the amount available pursuant to subsection (b) of this section.

"(2) The Secretary shall allot to each eligible high unemployment State the amount determined for that State under the procedure in paragraph (1) of this subsection.

"(3) The Secretary shall, by using the factors described in section 302(b), allot to eligible States the amount available that remains after the allotment required by paragraph (2) of this subsection.

"(d) **STATE PROCEDURES WITH RESPECT TO REALLOTMENT.**—The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallocation under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallocation under such subsection.

"(e) **DEFINITIONS.**—(1) For the purpose of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) For the purpose of this section, an eligible high unemployment State means a State—

"(A) which meets the requirement in subsection (c)(1), and

"(B) which is among the States which has an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

"(3) For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallocations described in this section.

"PART A—STATE DELIVERY OF SERVICES**"STATE PLAN**

"SEC. 311. (a) **STATE PLAN REQUIRED.**—In order to receive an allotment of funds under section 302(b), the Governor of a State shall submit to the Secretary, on a biennial basis, a State plan describing in detail the programs and activities that will be assisted

29 USC 1661.

with funds provided under this title. The State plan shall be submitted on or before the first day of May immediately preceding the program year for which funds are first to be made available under this title. Such plan shall include incentives to provide training of greater duration for those who require it, consistent with section 106(g).

“(b) **CONTENTS OF PLAN.**—Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this title and that—

“(1) services under this title—

“(A) will, except as provided in paragraph (4), only be provided to eligible dislocated workers;

“(B) will not be denied to an eligible dislocated worker displaced by a permanent closure or substantial layoff within the State, regardless of the State of residence of such worker; and

“(C) may be provided to other eligible dislocated workers regardless of the State of residence of such worker;

“(2) the State will designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State in order to assess the need for, and initially to provide for, appropriate basic readjustment services;

“(3) the State unit will—

“(A) make appropriate retraining and basic readjustment services available to eligible dislocated workers through the use of rapid response teams, substate grantees, and other appropriate organizations;

“(B) work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of this title;

“(C) operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation; and

“(D) provide technical assistance and advice to substate grantees;

“(4) the State will provide to additional dislocated workers (as defined in section 301(a)(2)) the services available under this title to eligible dislocated workers only if the Governor of such State determines that such services may be provided to additional dislocated workers without adversely affecting the delivery of such services to eligible dislocated workers;

“(5) the State unit will exchange information and coordinate programs with—

“(A) the appropriate economic development agency, for the purpose of developing strategies to avert plant closings or mass layoffs and to accelerate the reemployment of affected individuals;

“(B) State education, training, and social services programs; and

“(C) all other programs available to assist dislocated workers (including the Job Service and the unemployment insurance system);

“(6) the State unit will disseminate throughout the State information on the availability of services and activities under this title;

“(7) any program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization;

“(8) the State will not prescribe any standard for the operation of programs under this part that is inconsistent with section 106(g);

“(9) the State job training coordinating council has reviewed and commented in writing on the plan; and

“(10) the delivery of services with funds made available under this title will be integrated or coordinated with services or payments made available under chapter 2 of title II of the Trade Act of 1974 and provided by any State or local agencies designated under section 239 of the Trade Act of 1974.

“(c) REVIEW AND APPROVAL OF STATE PLANS.—The Secretary shall review any plan submitted under subsection (a), and any comments thereon submitted by the State job training coordinating council pursuant to subsection (b)(9), and shall notify a State as to any deficiencies in such plan within 30 days after submission. Unless a State has been so notified, the Secretary shall approve the plan within 45 days after submission. The Secretary shall not finally disapprove the plan of any State except after notice and opportunity for a hearing.

“(d) MODIFICATIONS—Any plan submitted under subsection (a) may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved in accordance with subsection (c).

“(e) COMPLAINT, INVESTIGATION, PENALTY.—(1) Whenever the Secretary receives a complaint or a report from an aggrieved party or a public official that a State is not complying with the provisions of the State plan required by this section, the Secretary shall investigate such report or complaint.

“(2)(A) Whenever the Secretary determines that there has been such a failure to comply and that other remedies under this Act are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the fiscal year in which the determination is made for each such violation.

“(B) No determination may be made under this paragraph until the State affected is afforded adequate notice and opportunity for a hearing.

“(f) SPECIAL RULE.—The provisions of section 102(h) and 105(d), relating to cases in which a service delivery area is a State, shall apply to this title.

“SUBSTATE GRANTEEES

“SEC. 312. (a) DESIGNATION OF SUBSTATE AREAS.—(1) The Governor of each State shall, after receiving any recommendations from the State job training coordinating council, designate substate areas for the State.

29 USC 1661a.

“(2) Each service delivery area within a State shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

“(3) In making designations of substate areas, the Governor shall consider—

“(A) the availability of services throughout the State;

"(B) the capability to coordinate the delivery of services with other human services and economic development programs; and
 "(C) the geographic boundaries of labor market areas within the State.

"(4) Subject to paragraphs (2) and (3), the Governor—

"(A) shall designate as a substate area any single service delivery area that has a population of 200,000 or more;

"(B) shall designate as a substate area any two or more contiguous service delivery areas—

"(i) that in the aggregate have a population of 200,000 or more; and

"(ii) that request such designation; and

Rural areas.

"(C) shall designate as a substate area any concentrated employment program grantee for a rural area described in section 101(a)(4)(A)(iii) of this Act.

"(5) The Governor may deny a request for designation under paragraph (4)(B) if the Governor determines that such designation would not be consistent with the effective delivery of services to eligible dislocated workers in various labor market areas (including urban and rural areas) within the State, or would not otherwise be appropriate to carry out the purposes of this title.

"(6) The designations made under this section may not be revised more than once each two years, in accordance with the requirements of this section.

Contracts.

"(b) DESIGNATION OF SUBSTATE GRANTEES.—A substate grantee shall be designated, on a biennial basis, for each substate area. Such substate grantee shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the State job training coordinating council), to negotiate such agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

"(c) ELIGIBILITY.—Entities eligible for designation as substate grantees include—

"(1) private industry councils in the substate area;

"(2) service delivery area grant recipients or administrative entities;

"(3) private nonprofit organizations;

"(4) units of general local government in the substate area, or agencies thereof;

"(5) local offices of State agencies; and

"(6) other public agencies, such as community colleges and area vocational schools.

Contracts.

"(d) FUNCTIONS OF SUBSTATE GRANTEES.—The substate grantee shall be responsible for providing, within such substate area, services described in section 314 (c), (d), and (e) pursuant to an agreement with the Governor and in accordance with the State plan under section 311 and the substate plan under section 313. The substate grantee may provide such services directly or through contract, grant, or agreement with service providers.

"(e) APPLICABILITY OF GENERAL ADMINISTRATIVE PROVISIONS TO SUBSTATE GRANTEES.—The requirements of parts C and D of title I of this Act that apply to an administrative entity or a recipient of

financial assistance under this Act shall also apply to substate grantees under this title.

"SUBSTATE PLAN

"SEC. 313. (a) GENERAL RULE.—No amounts appropriated for any fiscal year may be provided to a substate grantee unless the Governor (after considering the recommendations of the State job training coordinating council) has approved a substate plan, or modification thereof, submitted by the substate grantee describing the manner in which activities will be conducted within the substate area. Prior to the submission to the Governor, the plan shall be submitted for review and comment to the other parties to the agreement described in section 312(b).

29 USC 1661b.

"(b) CONTENTS OF SUBSTATE PLAN.—The substate plan shall contain a statement of—

"(1) the means for delivering services described in section 314 to eligible dislocated workers;

"(2) the means to be used to identify, select, and verify the eligibility of program participants;

"(3) the means for implementing the requirements of section 314(f);

"(4) the means for involving labor organizations in the development and implementation of services;

"(5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to section 311(b)(8);

"(6) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 314(b) is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to)—

(A) development and delivery of widespread outreach mechanisms;

(B) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;

(C) initial assessment and referral for further basic adjustment and training services; and

(D) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;

"(8) a description of the methods by which the other parties to the agreement described in section 312(b) may be involved in activities of the substate grantee;

"(9) a description of training services to be provided, including—

"(A) procedures to assess participants' current education skill levels and occupational abilities;

"(B) procedures to assess participants' needs, including educational, training, employment, and social services;

“(C) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

“(D) a description of services and activities to be provided in the substate area;

“(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

“(11) a detailed budget, as required by the State.

“(c) **PLAN APPROVAL.**—The Governor shall approve or disapprove the plan of a substate grantee in the manner required by section 105(b) (1), (2), and (3). If a substate grantee fails to submit a plan, or submits a plan that is not approved by the Governor in accordance with such section, the Governor may direct the expenditure of funds allocated to the substate area until such time as a plan is submitted and approved or a new substate grantee is designated under section 312.

“(d) **BY-PASS AUTHORITY.**—If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor may, subject to appropriate notice and opportunity for comment in the manner required by section 105(b) (1), (2), and (3), direct the expenditure of funds in accordance with the substate plan until—

“(1) the substate grantee corrects the failure,

“(2) the substate grantee submits an acceptable modification to its plan pursuant to subsection (a), or

“(3) a new substate grantee is designated under section 312.

“USE OF FUNDS; SERVICES TO BE PROVIDED

29 USC 1661c.

“**SEC. 314. (a) IN GENERAL.**—Funds allotted under section 302 may be used—

“(1) to provide rapid response assistance in accordance with subsection (b);

“(2) to deliver, coordinate, and integrate basic readjustment services and support services in accordance with subsection (c);

“(3) to provide retraining services in accordance with subsection (d);

“(4) to provide needs-related payments in accordance with subsection (e); and

“(5) to provide for coordination with the unemployment compensation system in accordance with subsection (f).

“(b) **RAPID RESPONSE ASSISTANCE.**—(1) The dislocated worker unit required by section 311(b)(2) shall include specialists who may use funds available under this title—

“(A) to establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

“(i) provide information on and facilitate access to available public programs and services; and

“(ii) provide emergency assistance adapted to the particular closure or layoff;

“(B) to promote the formation of labor-management committees, by providing—

"(i) immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

"(ii) a list of individuals from which the chairperson of the committee may be selected;

"(iii) technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

"(iv) assistance in the selection of worker representatives in the event no union is present;

"(C) to collect information related to—

"(i) economic dislocation (including potential closings or layoffs); and

"(ii) all available resources within the State for displaced workers,

which information shall be made available on a regular basis to the Governor and the State job training coordinating council to assist in providing an adequate information base for effective program management, review, and evaluation;

"(D) to provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

"(E) to disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

"(F) to assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

"(2) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

"(c) BASIC READJUSTMENT SERVICES.—Funds allotted under section 302 may be used to provide basic readjustment services to eligible dislocated workers. Subject to limitations set forth in subsection (e) and section 315(a), the services may include (but are not limited to)—

"(1) development of individual readjustment plans for participants in programs under this title;

"(2) outreach and intake;

"(3) early readjustment assistance;

"(4) job or career counseling;

"(5) testing;

"(6) orientation;

"(7) assessment, including evaluation of educational attainment and participant interests and aptitudes;

"(8) determination of occupational skills;

"(9) provision of future world-of-work and occupational information;

"(10) job placement assistance;

"(11) labor market information;

"(12) job clubs;

"(13) job search;

“(14) job development;

“(15) supportive services, including child care, commuting assistance, and financial and personal counseling which shall terminate not later than the 90th day after the participant has completed other services under this part, except that counseling necessary to assist participants to retain employment shall terminate not later than 6 months following the completion of training;

“(16) prelayoff assistance;

“(17) relocation assistance; and

“(18) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

“(d) RETRAINING SERVICES.—(1) Funds allotted under section 302 may be used to provide training services under this part to eligible dislocated workers. Such services may include (but are not limited to)—

“(A) classroom training;

“(B) occupational skill training;

“(C) on-the-job training;

“(D) out-of-area job search;

“(E) relocation;

“(F) basic and remedial education;

“(G) literacy and English for non-English speakers training;

“(H) entrepreneurial training; and

“(I) other appropriate training activities directly related to appropriate employment opportunities in the substate area.

“(2) No funds under this part may be expended to provide wages for public service employment.

“(e) NEEDS-RELATED PAYMENTS.—(1) Funds allocated to a substate grantee under section 302(d) may be used pursuant to a substate plan under section 313 to provide needs-related payments to an eligible dislocated worker who does not qualify or has ceased to qualify for unemployment compensation, in order to enable such worker to participate in training or education programs under this title. To be eligible for such payments, an eligible dislocated worker who has ceased to qualify for unemployment compensation must have been enrolled in training by the end of the 13th week of the worker's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an employee is informed that a short-term layoff will in fact exceed 6 months.

“(2) The level of needs-related payments shall be made available at a level not greater than the higher of—

“(A) the applicable level of unemployment compensation; or

“(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

“(f) COORDINATION WITH UNEMPLOYMENT COMPENSATION.—Funds allocated to a State under section 302 may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the limitation on administrative expenses in section 315. Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs within such State.

"SEC. 315. (a) USE OF FUNDS FOR RETRAINING SERVICES.—(1) Not less than 50 percent of the funds expended under this title by any substate grantee shall be expended for retraining services specified under section 314(d).

29 USC 1661d.

"(2) A substate grantee may apply to the Governor for a waiver of the requirement in paragraph (1). Such waiver may not permit less than 30 percent of the funds to be spent for such retraining services. The waiver may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations or industries with long-term potential. The Governor shall prescribe criteria for the demonstration required by the previous sentence.

"(3) An application for such a waiver shall be submitted at such time and in such form as the Governor may prescribe. The Governor shall provide an opportunity for public comment on the application.

"(b) NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES LIMITATION.—Not more than 25 percent of the funds expended under this title by any substate grantee or by the Governor may be used to provide needs-related payments and other supportive services.

"(c) ADMINISTRATIVE COST LIMITATION.—Not more than 15 percent of the funds expended under this title by any substate grantee or by the Governor may be expended to cover the administrative cost of programs under this title. For purposes of this subsection, administrative cost does not include the cost of activities under section 314(b).

"RETRAINING SERVICES AVAILABILITY

"SEC. 316. (a) ALTERNATIVE METHODS OF PROVIDING RETRAINING SERVICES.—A substate grantee may provide retraining services described in section 314(d) to an eligible dislocated worker—

29 USC 1661e.

"(1) by beginning such services promptly upon the worker's application for the program under this title;

"(2) by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility in accordance with subsection (b) (1) and (2); or

"(3) by permitting the worker to obtain such services from a service provider using such certificate in accordance with subsection (b)(3).

"(b) CERTIFICATION OF CONTINUING ELIGIBILITY.—(1) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility may be effective for periods not to exceed 104 weeks. No such certificate shall include any reference to any specific amount of funds. Any such certificate shall state that it is subject to the availability of funds at the time that any such training services are to be provided. Acceptance of such a certificate shall not be deemed to be enrollment in training.

"(2) Any individual to whom a certificate of continuing eligibility has been issued under paragraph (1) of this subsection shall remain eligible for the program authorized under this part for the period specified in the certificate, notwithstanding section 301(a), and may use the certificate in order to receive the retraining services, subject to the limitations contained in the certificate.

Contracts.

"(3) A substate grantee may provide training services through systems that permit eligible dislocated workers to use certificates of continuing eligibility to seek out and arrange their own retraining with service providers approved by that substate grantee. Retraining provided pursuant to the certificate shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

"FUNCTIONS OF STATE JOB TRAINING COORDINATING COUNCIL

29 USC 1661f.

"SEC. 317. For purposes of this title, the State job training coordinating council shall—

"(1) provide advice to the Governor regarding the use of funds under this title, including advice on—

"(A) the designation of substate areas and substate grantees, and the procedures for the selection of representatives within such areas under section 312; and

"(B) the methods for allocation and reallocation of funds, including the method for distribution of funds reserved under section 302(c)(2) and funds subject to reallocation under section 303(d);

"(2) submit comments to the Governor and the Secretary on the basis of review of the State and substate programs under this title;

"(3) review, and submit written comments on, the State plan (and any modification thereof) before its submission under section 311;

"(4) review, and submit written comments on, each substate plan submitted to the Governor under section 313; and

"(5) provide advice to the Governor regarding performance standards.

"PART B—FEDERAL RESPONSIBILITIES

"FEDERAL ADMINISTRATION

29 USC 1662.

"SEC. 321. (a) STANDARDS.—The Secretary shall promulgate standards for the conduct and evaluation of programs under this title.

"(b) BY-PASS AUTHORITY.—In the event that any State fails to submit a plan that is approved under section 311, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this title until the State plan is submitted and approved under that section.

"FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES

29 USC 1662a.

"SEC. 322. (a) GENERAL AUTHORITY.—The Secretary shall, with respect to programs required by this title—

"(1) distribute funds to States in accordance with the requirements of section 302;

"(2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;

"(3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;

"(4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 106(g);

"(5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and

Research and development.

"(6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

b) ADMINISTRATIVE PROVISIONS.—The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this title.

"ALLOWABLE ACTIVITIES

SEC. 323. (a) CIRCUMSTANCES AND ACTIVITIES FOR USE OF FUNDS.—Amounts reserved for this part under section 302(a)(2) may be used to provide services of the type described in section 314 in the following circumstances: 29 USC 1662b.

"(1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities) when the workers are not expected to return to their previous occupations;

"(2) industrywide projects;

"(3) multistate projects;

"(4) special projects carried out through agreements with Indian tribal entities;

"(5) special projects to address national or regional concerns;

"(6) demonstration projects, including the projects described in section 324;

"(7) to provide additional financial assistance to programs and activities provided by States and substate grantees under part A of this title; and

"(8) to provide additional assistance under proposals for financial assistance that are submitted to the Secretary and approved by the Secretary after consultation with the Governor of the State in which the project is to operate.

b) USE OF FUNDS IN EMERGENCIES.—Amounts reserved for this part under section 302(a)(2) may also be used to provide services of the type described in section 314 whenever the Secretary (with the consent of the Governor) determines that an emergency exists with respect to any particular distressed industry or any particularly distressed area to provide emergency financial assistance to dislocated workers. The Secretary may make arrangements for the immediate provision of such emergency financial assistance for the purposes of this section with any necessary supportive documentation to be submitted at a date agreed to by the Governor and the Secretary.

(c) STAFF TRAINING AND TECHNICAL ASSISTANCE.—(1) Amounts reserved for this part under section 302(a)(2) may be used to provide staff training and technical assistance services to States, communities, businesses and labor organizations, and other entities involved in providing adjustment assistance to workers. Applications for technical assistance funds shall be submitted in accordance with procedures issued by the Secretary.

(2) Not more than 5 percent of the funds reserved for this part in any fiscal year shall be used for the purpose of this subsection.

“(d) TRAINING OF RAPID RESPONSE STAFFS.—Amounts reserved for this part under section 302(a)(2) shall be used to provide training of staff, including specialists, providing rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees.

“DEMONSTRATION PROGRAMS

29 USC 1662c.

“SEC. 324. (a) AUTHORIZED PROGRAMS.—From the amount reserved for this part under section 302(a)(2) for the fiscal years 1989, 1990, and 1991, not less than 10 percent of such amount shall be used for demonstration programs. Such demonstration programs may be up to three years in length, and shall include (but need not be limited to) at least two of the following demonstration programs:

- “(1) self-employment opportunity demonstration program;
- “(2) public works employment demonstration program;
- “(3) dislocated farmer demonstration program; and
- “(4) job creation demonstration program.

“(b) EVALUATION AND REPORT.—The Secretary shall conduct or provide for an evaluation of the success of each demonstration program, and shall prepare and submit to the Congress a report of the evaluation not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.”.

SEC. 6303. AUTHORIZATION OF APPROPRIATIONS.

29 USC 1502.

Section 3(c) of the Job Training Partnership Act is amended to read as follows:

- “(c) There are authorized to be appropriated to carry out title III—
- “(1) \$980,000,000 for fiscal year 1989; and
- “(2) such sums as may be necessary for each succeeding fiscal year.”.

SEC. 6304. CONFORMING AMENDMENTS.

29 USC 1516.

(a) PERFORMANCE STANDARDS.—Section 106 of the Job Training Partnership Act is amended—

- (1) in subsection (e)—
 - (A) by inserting “and subsection (g)” after “subsection”;
 - (B) by inserting after “State” the following: “and in substate areas”; and
- (2) in subsection (g)—
 - (A) by inserting “(1)” after “(g)”; and
 - (B) by adding at the end thereof the following new paragraph:

“(2) Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).”.

29 USC 1532.

(b) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3) of the Job Training Partnership Act is amended to read as follows:

“(3) The State job training coordinating council shall be composed as follows:

- “(A) Thirty percent of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State.

“(B) Thirty percent of the membership of the State council shall be—

“(i) representatives of the State legislature, and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans’ affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State; and

“(ii) representatives of the units or consortia of general local government in the State who shall be nominated by the chief elected officials of the units or consortia of units of general local government, and the representatives of local educational agencies who shall be nominated by local educational agencies.

“(C) Thirty percent of the membership of the State council shall be representatives of organized labor and representatives of community-based organizations in the State.

“(D) Ten percent of the membership of the State council shall be appointed from the general public by the Governor of the State.”.

TABLE OF CONTENTS.—The table of contents of such Act is amended by striking out the portion pertaining to title III and inserting the following:

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

- 301. Definitions.
- 302. Allotment.
- 303. Recapture and reallocation of unexpended funds.

“PART A—STATE DELIVERY OF SERVICES

- 311. State plan.
- 312. Substate grantees.
- 313. Substate plan.
- 314. Use of funds; services to be provided.
- 315. Limitations on uses of funds.
- 316. Retraining services availability.
- 317. Functions of State job training coordinating council.

“PART B—FEDERAL RESPONSIBILITIES

- 321. Federal administration.
- 322. Federal delivery of dislocated worker services.
- 323. Allowable activities.
- 324. Demonstration programs.”.

6305. TRANSITION PROVISIONS.

29 USC 1651 note.

GENERAL RULE.—Except as otherwise provided in this section, amendments made by sections 6302 and 6304 shall be effective program years beginning on or after July 1, 1989.

Effective date.

PROGRAM YEAR 1988-1989.—The Secretary of Labor and Governors shall, during the program year beginning July 1, 1988, continue to administer title III of the Job Training Partnership Act in the same manner as such title was administered during prior

program years, except to the extent necessary to provide for an orderly transition to and implementation of the amendments made by this subtitle. The Secretary and Governors may, for such purposes, use funds appropriated for fiscal year 1989 or any preceding fiscal year to carry out appropriate transition and implementation activities. Such activities may include—

(1) activities to prevent disruption in the delivery of services to program participants; and

(2) planning for and implementation of such amendments.

(c) **STATE JOB TRAINING COORDINATING COUNCIL.**—A State job training coordinating council shall comply with the changes in membership required by the amendment made by section 6304(b) not later than January 1, 1989. Upon certification by the Governor to the Secretary that such changes in membership have been accomplished, such council shall begin to perform the functions specified by section 317 of the Job Training Partnership Act (as amended by this subtitle).

(d) **SUBSTATE AREAS AND GRANTEES.**—The designation of substate areas and substate grantees required by the amendment to title III of such Act shall be completed not later than March 1, 1989.

(e) **LIMITATION ON CARRY-OVER OF FUNDS.**—The provisions of section 303 of such Act (as amended) shall apply to the program year beginning July 1, 1988, except that, for such program year—

(1) subsection (b)(1) of such section shall be applied by substituting “30 percent” for “20 percent”; and

(2) subsection (e) of such section shall be applied by substituting “70 percent” for “80 percent”.

(f) **REGULATIONS.**—The Secretary of Labor shall prescribe such regulations as may be required to implement the amendments made by this subtitle not later than November 1, 1988.

SEC. 6306. STUDIES.

29 USC 1752.

(a) **DATA ON DISPLACED FARMERS AND RANCHERS.**—Section 462 of such Act is amended by adding at the end the following new subsection:

“(f)(1) The Secretary shall develop, in coordination with the Secretary of Agriculture, statistical data relating to permanent dislocation of farmers and ranchers due to farm and ranch failures. Among the data to be included are—

“(A) the number of such farm and ranch failures;

“(B) the number of farmers and ranchers displaced;

“(C) the location of the affected farms and ranches;

“(D) the types of farms and ranches involved; and

“(E) the identification of farm family members, including spouses, and farm workers working the equivalent of a full-time job on the farm who are dislocated by such farm and ranch failures.

Reports.

“(2) The Secretary shall publish a report based upon such data as soon as practicable after the end of each calendar year. Such report shall include a comparison of data contained therein with data currently used by the Bureau of Labor Statistics in determining the Nation’s annual employment and unemployment rates and an analysis of whether farmers and ranchers are being adequately counted in such employment statistics. Such report shall also include an analysis of alternative methods for reducing the adverse effects of displacements of farmers and ranchers, not only on the individual farmer or rancher, but on the surrounding community”.

FAILURE TO PROVIDE INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—(1) The Secretary of Labor shall conduct a study, in consultation with the Secretary of State, to identify the extent to which countries recognize and enforce, and the producers fail to comply with, internationally recognized worker rights. A report on the study conducted under this subsection shall be submitted to Congress biennially.

29 USC 565.

Reports.

As used in this Act, the term “internationally recognized worker rights” includes—

- (A) the right of association;
- (B) the right to organize and bargain collectively;
- (C) the right to be free from the use of any form of forced or compulsory labor;
- (D) a minimum age for the employment of children; and
- (E) acceptable conditions of work with respect to minimum wages, maximum hours of work, and occupational safety and health.

ADDITIONAL STUDIES.—The National Commission for Employment Policy shall conduct research related to the provisions of this Act. Such research shall include examinations of—

Research and development.
29 USC 1651 note.

- (1) the role of the employment services in implementing programs to enhance services provided under this title, and
- (2) alternative techniques for managing production cutbacks without permanently reducing workforces.

A report on the research conducted under this subsection shall be submitted to the Congress not later than 18 months after the date of enactment of this Act.

Reports.

§ 307. JOB BANKS.

AMENDMENT.—Title V of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

“STATE JOB BANK SYSTEMS

SEC. 505. (a)(1) The Secretary shall carry out the purposes of this section with sums appropriated pursuant to paragraph (2) for any fiscal year.

29 USC 1505.

(2) There are authorized to be appropriated to carry out this section \$50,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year.

Appropriation authorization.

(3) The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and communications systems for such purposes as—

Computers.
Communications and telecommunications.

“(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

“(2) providing information on occupational supply and demand; and

“(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

Computers.

(4) Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consider-

ation shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 422(b) of the Carl D. Perkins Vocational Education Act), and other users of such systems for the various purposes described in subsection (b) of this section.”

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 504 the following:

“Sec. 505. State job bank systems.”.

National Science
Foundation
University
Infrastructure
Act of 1988.
Research and
development.
Schools and
colleges.
Museums.
42 USC 1861
note.
42 USC 1862a.

Subtitle E—National Science Foundation University Infrastructure

SEC. 6401. SHORT TITLE.

This subtitle may be cited as the “National Science Foundation University Infrastructure Act of 1988”.

SEC. 6402. NATIONAL SCIENCE FOUNDATION ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in modernizing and revitalizing the Nation’s research facilities at institutions of higher education, independent nonprofit research institutions and research museums through capital investments.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out an Academic Research Facilities Modernization Program, under which awards shall be made to institutions of higher education, independent nonprofit research institutions and research museums, and consortia thereof, for the repair, renovation, or replacement (as appropriate) of such institutions’ obsolete laboratories and other research facilities.

(c) PROJECTS AND FUNDING.—(1) The Academic Research Facilities Modernization Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(A) which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the eligible institutions or consortia thereof involved, and

(B) for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia thereof in accordance with regulations prescribed by the Director of the Foundation, pursuant to subsection (d), with the objective of carrying out the purpose of this section.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any eligible institution or consortia thereof will be in an amount equal to not more than 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or consortia thereof or from other non-Federal public or private sources).

Regulations.

CRITERIA FOR AWARDS.—(1) Annually, or prior to the issuance of a program announcement for solicitation of proposals for the use of funds to any institution or consortia thereof for a project under the National Science Foundation Academic Research Facilities Modernization Program, the National Science Foundation shall publish in the Federal Register interim guidelines for public review and comment for a period of 60 days. Such guidelines shall include (and not be limited to) the following:

Federal
Register,
publication.

(A) specific definitions for the terms: facilities, instrumentation, equipment, repair, renovation, and replacement;

(B) specific selection criteria to be used in evaluating the scientific merit of proposals and, in making awards to an institution or to consortia thereof, including an analysis of the age and condition of existing research facilities; and

(C) specific provisions for matching the Federal grant pursuant to subsection (b).

Final guidelines shall be published in the Federal Register 60 days following the close of the comment period incorporating such appropriate revisions as may arise from comments received during the review period. The guidelines, at a minimum, shall include selection criteria for the following:

Federal
Register,
publication.

(A) the quality of the research and training to be carried out in the facility or facilities involved;

(B) the congruence of the institution's research and training activities with the future research needs of the Nation and the training and research mission of the National Science Foundation;

(C) the contribution which the project will make toward meeting national, regional, and the institution's research and related training needs; and

(D) the need for the proposed repair, renovation, or replacement (as appropriate) based on an analysis of the age and condition of existing research facilities and equipment.

DISTRIBUTION OF FUNDS.—Awards made under the National Science Foundation Academic Research Facilities Modernization Program shall not exceed \$5,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or replacement (as appropriate) of academic research facilities.

Grants.

CONSULTATIONS.—In prescribing criteria and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other Federal agencies.

RESERVATIONS FOR CERTAIN INSTITUTIONS.—(1) At least 15 percent of the amount which is appropriated pursuant to this section in each fiscal year shall be available only for awards to universities, colleges, and research museums that received less than \$10,000,000 in Federal obligations for research and development (including obligations for the activities authorized in this section and section 102 of the National Science Foundation Act of 1950) in each of the two preceding fiscal years.

Grants.

Of the amounts appropriated under this section in each fiscal year, at least 10 percent of the funds shall be reserved for institutions of higher education servicing a substantial percentage of students who are Black Americans, Native Americans, Hispanic Americans, Alaskan Natives (Eskimos or Aleut), Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), Northern Marianan, or Palauan.

Minorities.
Indians.

(3) Requirements of paragraph (2) may be satisfied by considering the funds awarded under paragraph (1) to the institutions described in paragraph (2).

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$85,000,000 for fiscal year 1989 to carry out the National Science Foundation Academic Research Facilities Modernization Program. Such sums shall be available for that Program every year thereafter subject to the authorizations and appropriations of activities for the National Science Foundation.

42 USC 1862b.

SEC. 6403. NATIONAL SCIENCE FOUNDATION COLLEGE SCIENCE INSTRUMENTATION PROGRAM.

(a) **PURPOSE.**—It is the purpose of this section to assist in revitalizing the Nation's academic instructional instrumentation at colleges.

(b) **ESTABLISHMENT OF PROGRAM.**—To carry out this purpose, the National Science Foundation shall establish and carry out the College Science Instrumentation Program, under which awards are made only to two-year and community colleges and four-year, non-Ph.D. degree-granting institutions or consortia thereof for the purchase of instructional instrumentation.

(c) **PROJECTS AND FUNDING.**—(1) The College Science Instrumentation Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(1) which involve the purchase and replacement (as appropriate) of specific instructional instrumentation at the institutions involved, and

(2) for which funds are awarded in response to specific proposals submitted by such institutions or consortia thereof on a competitive basis in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purposes of this Act.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of the objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution or consortia thereof after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any academic institution will be in an amount equal to not more than 50 percent of the cost of the purchase and replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

(d) **CRITERIA FOR AWARDS.**—The National Science Foundation will evaluate proposals on the basis of the following criteria:

(1) **PERFORMANCE COMPETENCE.**—This criterion relates to the capacity of the investigator or investigators, the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposed recent research science education performance.

(2) **INTRINSIC MERIT.**—This criterion relates to the quality, currency, and significance of the scientific content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

(3) **UTILITY OR RELEVANCE.**—This criterion relates to the impact the project will have at the proposing institution, and the relevance of the project in the local context.

(4) **EFFECT ON THE INFRASTRUCTURE OF SCIENCE AND ENGINEERING.**—This criterion relates to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, effectiveness of the Nation's scientific and engineering research, education, and manpower base.

CONSULTATIONS.—In prescribing regulations and conducting a program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other Federal agencies.

AUTHORIZATION OF APPROPRIATIONS.—Such sums shall be available for the College Science Instrumentation Program subject every year to the authorizations and appropriations for the National Science Foundation.

TITLE VII—BUY AMERICAN ACT OF 1988

Buy American
Act of 1988.
Contracts.

41 USC 10a note.

001. SHORT TITLE.

This title may be cited as the "Buy American Act of 1988".

002. AMENDMENTS TO THE BUY AMERICAN ACT.

Section III of the Act of March 3, 1933 (41 U.S.C. 10a-10d), is amended—

(1) by redesignating sections 4 and 5 as sections 5 and 6, respectively; and

(2) by inserting after section 3 the following new section:

Sec. 4. (a) A Federal agency shall not award any contract—
“(1) for the procurement of an article, material, or supply obtained, produced, or manufactured—

41 USC 10c
notes.

“(A) in a signatory country that is considered to be a signatory not in good standing of the Agreement pursuant to section 305(f)(3)(A) of the Trade Agreements Act of 1979; or

41 USC 10b-1.
Minerals and
mining.

“(B) in a foreign country whose government maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of such Act; or

“(2) for the procurement of a service of any contractor or subcontractor that is a citizen or national of a foreign country identified by the President pursuant to section 305(f)(3)(A) or 305(g)(1)(A) of such Act, or is owned or controlled directly or indirectly by citizens or nationals of such a foreign country.
“(3) The prohibition on procurement in subsection (a) is subject to sections 305(h) and 305(j) of such Act and shall not apply—

“(1) with respect to services, articles, materials, or supplies procured and used outside the United States and its territories;

“(2) notwithstanding section 305(g) of such Act, to an eligible product of a country which is a signatory country unless that country is considered to be a signatory not in good standing pursuant to section 305(f)(3)(A) of such Act; or

“(3) notwithstanding section 305(g) of such Act, to a country that is a least developed country (as that term is defined in section 308(6) of that Act).

“(4) Notwithstanding subsection (a) of this section, the President or the head of a Federal agency may authorize the award of a

contract or class of contracts if the President or the head of the Federal agency—

“(1) determines that such action is necessary—

“(A) in the public interest;

“(B) to avoid the restriction of competition in a manner which would limit the procurement in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or supplier; or

“(C) because there would be or are an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices; and

“(2) notifies the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, and the appropriate committees of the House of Representatives, of such determination—

“(A) not less than 30 days prior to the date of the award of the contract or the date of authorization of the award of a class of contracts; or

“(B) if the agency's need for the service, article, material, or supply is of such urgency that the United States would be seriously injured by delaying the award or authorization, not more than 90 days after the date of such award or authorization.

“(d) The authority of the head of a Federal agency under subsection (c) shall not apply to contracts subject to memorandums of understanding entered into by the Department of Defense (or any military department) and a representative of a foreign country (or agency or instrumentality thereof). In the case of any such contracts, any determinations and notice required by subsection (c) shall be made by—

“(1) the President, or

“(2) if delegated, by the Secretary of Defense or the Secretary of the Army, Navy, or Air Force, subject to review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)).

“(e) The authority of the head of a Federal agency under subsection (c) or (d) of this section may not be delegated.

“(f) Nothing in this section shall restrict the application of the prohibition under section 302(a)(1) of the Trade Agreements Act of 1979.

“(g)(1) For purposes of this section with respect to construction services, a contractor or subcontractor is owned or controlled directly or indirectly by citizens or nationals of a foreign country if—

“(A) 50 percent or more of the voting stock of the contractor or subcontractor is owned by one or more citizens or nationals of the foreign country;

“(B) the title to 50 percent or more of the stock of the contractor or subcontractor is held subject to trust or fiduciary obligations in favor of one or more citizens or nationals of the foreign country;

“(C) 50 percent or more of the voting stock of the contractor or subcontractor is vested in or exercisable on behalf of one or more citizens or nationals of the foreign country;

“(D) the case of a corporation—

“(i) the number of its directors necessary to constitute a quorum are citizens or nationals of the foreign country; or

“(ii) the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or

“(E) in the case of a contractor or subcontractor who is a participant in a joint venture or a member of a partnership, any participant of the joint venture or partner meets any of the criteria in subparagraphs (A) through (D) of this paragraph.

“(A) For purposes of this section, except as provided in paragraph (1), a determination of whether a contractor or subcontractor is a citizen or national of a foreign country or is owned or controlled wholly or indirectly by citizens or nationals of a foreign country shall be made in accordance with policy guidance prescribed by the Administrator for Federal Procurement Policy after conducting one or more public hearings at which interested parties may present comments. Sections 556 and 557 of title 5, United States Code, shall apply to the conduct of any such hearing.

“(B) The Administrator shall include in the policy guidance prescribed under subparagraph (A) definitions, procedures, standards, and rules that, to the extent the Administrator considers appropriate and consistent with the applicability of such policy guidance to construction services (other than construction services), is the same as or similar to the definitions, procedures, standards, and rules that the Administrator has developed and issued for the administration of sections 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988 (101 Stat. 1329-434).

“(C) The policy guidance required by subparagraph (A) shall be issued not later than 180 days after the date of enactment of this subsection.

“(A) The Administrator for Federal Procurement Policy shall conduct an assessment of the current rules under this Act for making determinations of country of origin and alternatives to such rules. Such assessment shall identify and evaluate (i) reasonable alternatives to such rules of origin, including one or more alternative rules that require a determination on the basis of total cost, and (ii) the specific cost factors that should be included in determining total cost.

“(B) In conducting the analysis, the Administrator shall consult and seek comment from representatives of United States labor and industry, other interested United States persons, and other Federal agencies. The Administrator shall hold public hearings for the purpose of obtaining such comment, and a transcript of such hearings shall be appended to the report required by subparagraph (C).

“(C) A report on the results of the analysis shall be submitted to the appropriate committees of the House of Representatives and to the Committee on Governmental Affairs and other appropriate committees of the Senate not later than 18 months after the date of enactment of this subsection. Such report shall include proposed policy guidance or any recommended legislative changes on the matters to be used in making determinations of country of origin.

“(D) As used in this section—

“(1) the term ‘Agreement’ means the Agreement on Government Procurement as defined in section 308(1) of the Trade Agreements Act of 1979;

“(2) the term ‘signatory’ means a party to the Agreement; and

“(3) the term ‘eligible product’ has the meaning given such term by section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)).”

Reports.

President of U.S. SEC. 7003. PROCEDURES TO PREVENT GOVERNMENT PROCUREMENT DISCRIMINATION.

Section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515) is amended by adding at the end thereof the following:

“(d) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—

“(1) ANNUAL REPORT REQUIRED.—The President shall, no later than April 30, 1990, and annually on April 30 thereafter, submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, a report on the extent to which foreign countries discriminate against United States products or services in making government procurements.

“(2) IDENTIFICATIONS REQUIRED.—In the annual report, the President shall identify (and continue to identify subject to subsections (f)(5) and (g)(3)) any countries, other than least developed countries, that—

“(A) are signatories to the Agreement and not in compliance with the requirements of the Agreement;

“(B)(i) are signatories to the Agreement; (ii) are in compliance with the Agreement but, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government; or

“(C)(i) are not signatories to the Agreement; (ii) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government.

“(3) CONSIDERATIONS IN MAKING IDENTIFICATIONS.—In making the identifications required by paragraph (1), the President shall—

“(A) use the requirements of the Agreement, government procurement practices, and the effects of such practices on United States businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for United States products or services;

“(B) take into account, among other factors, whether and to what extent countries that are signatories to the Agreement, and other countries described in paragraph (1) of this subsection—

“(i) use sole-sourcing or otherwise noncompetitive procedures for procurements that could have been conducted using competitive procedures;

“(ii) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the Agreement's value threshold or to make the procurements less attractive to United States businesses;

“(iii) announce procurement opportunities with inadequate time intervals for United States businesses to submit bids; and

“(iv) use specifications in such a way as to limit the ability of United States suppliers to participate in procurements; and

“(C) use any other additional criteria deemed appropriate.

“(4) CONTENTS OF REPORTS.—The reports required by this subsection shall include, with respect to each country identified under subparagraph (A), (B), or (C) of paragraph (1), the following:

“(A) a description of the specific nature of the discrimination, including (for signatory countries) any provision of the Agreement with which the country is not in compliance; and

“(B) an identification of the United States products or services that are affected by the noncompliance or discrimination;

“(C) an analysis of the impact of the noncompliance or discrimination on the commerce of the United States and the ability of United States companies to compete in foreign government procurement markets; and

“(D) a description of the status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report with respect to such country.

“(5) INFORMATION AND ADVICE FROM GOVERNMENT AGENCIES AND UNITED STATES BUSINESSES.—In developing the annual reports required by this subsection, the President shall seek information and advice from executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and from United States businesses in the United States and in countries that are signatories to the Agreement and in other foreign countries whose products or services are acquired in significant amounts by the United States Government.

“(6) IMPACT OF NONCOMPLIANCE.—The President shall take into account, in identifying countries in the annual report and in any action required by this section, the relative impact of any noncompliance with the Agreement or of other discrimination on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of United States suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

“(7) IMPACT ON PROCUREMENT COSTS.—Such report shall also include an analysis of the impact on United States Government procurement costs that may occur as a consequence of any sanctions that may be required by subsection (f) or (g) of this section.

“(e) CONSULTATION.—No later than the date the annual report is submitted under subsection (d)(1), the United States Trade Representative, on behalf of the United States, shall request consultations with any countries identified in the report to obtain their compliance with the Agreement or the elimination of their discriminatory procurement practices unless the country is identified as

discriminatory pursuant to section 305(d)(1) in the preceding annual report.

"(f) PROCEDURES WITH RESPECT TO VIOLATIONS OF THE AGREEMENT.—

"(1) INITIATION OF DISPUTE SETTLEMENT PROCEDURES.—If, within 60 days after the annual report is submitted under subsection (d)(1), a signatory country identified pursuant to subsection (d)(1)(A) has not complied with the Agreement, then the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under the Agreement unless such proceedings are already underway pursuant to the identification of the signatory country under section 305(d)(1) as not in compliance in a preceding annual report.

"(2) SETTLEMENT OF DISPUTES.—If, before the end of a year following the initiation of dispute settlement procedures—

"(A) the other participant to the dispute settlement procedures has complied with the Agreement,

"(B) the other participant to the procedures takes the action recommended as a result of the procedures to the satisfaction of the President, or

"(C) the procedures result in a determination requiring no action by the other participant,
the President shall take no action to limit Government procurement from that participant.

"(3) SANCTIONS AFTER FAILURE OF DISPUTE RESOLUTION.—If the dispute settlement procedures initiated pursuant to this subsection with any signatory country to the Agreement are not concluded within one year from their initiation or the country has not met the requirements of paragraph (2)(A) or (2)(B), then—

"(A) from the end of such one year period, such signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country; and

"(B) on the day after the end of such one year period, the President shall revoke the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act.

"(4) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanctions required by subparagraph (A) or (B) of paragraph (3) would harm the public interest of the United States, the President may, to the extent necessary to apply appropriate limitations that are equivalent, in their effect, to the noncompliance with the Agreement by that signatory country—

"(A) withhold the imposition of either (but not both) of such sanctions;

"(B) modify or restrict the application of either or both such sanctions, subject to such terms and conditions as the President considers appropriate; or

"(C) take any combination of the actions permitted by subparagraph (A) or (B) of this paragraph.

"(5) TERMINATION OF SANCTIONS AND REINSTATEMENT OF WAIVERS.—The President may terminate the sanctions imposed under paragraph (3) or (4), reinstate the waiver of discrimina-

country purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act, and remove that country from the report under subsection (d)(1) of this section at such time as the President determines that—

“(A) the signatory country has complied with the Agreement;

“(B) the signatory country has taken corrective action as a result of the dispute settlement procedures to the satisfaction of the President; or

“(C) the dispute settlement procedures result in a determination requiring no action by the other signatory country.

PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

“(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1), a country that is identified pursuant to subparagraph (B) or (C) of such subsection has not eliminated their discriminatory procurement practices, then, on the day after the end of such 60-day period—

“(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

“(B) the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country.

“(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

“(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) at such time as the President determines that the country has eliminated the discrimination identified pursuant to subsection (d)(2) (B) or (C).

LIMITATIONS ON IMPOSING SANCTIONS.—

“(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

“(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

“(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

“(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade organization established under section 242(a) of the Trade

Expansion Act of 1962 and the advice of United States businesses and other interested parties.

“(i) **RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.**—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98-369; 98 Stat. 1175).

“(j) **FEDERAL REGISTER NOTICES OF ACTIONS.**—

“(1) **NOTICES REQUIRED.**—A notice shall be published in the Federal Register on the date of any action under this section, describing—

“(A) the results of dispute settlement proceedings under subsection (f)(2);

“(B) any sanction imposed under subsection (f)(3) or (g)(1);

“(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2); and

“(D) the termination of any sanction under subsection (f)(5) or (g)(3).

“(2) **PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.**—A notice describing the termination of any sanction under subsection (f)(5) or (g)(3) shall include a copy of the President's determination under such subsection.

“(k) **GENERAL REPORT ON ACTIONS UNDER THIS SECTION.**—

“(1) **ADVICE TO THE CONGRESS.**—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the the appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

“(2) **CONTENTS OF REPORT.**—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

“(3) **LEGISLATIVE RECOMMENDATIONS.**—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.”.

USC 10a note. **SEC. 7004. SUNSET PROVISION.**

The amendments made by this title shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of 1979, and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.

SEC. 7005. CONFORMING AMENDMENTS.

(a) **DEFINITION OF FEDERAL AGENCY.**—The first section of the Act of March 3, 1933 (41 U.S.C. 10c), is amended—

(1) by striking out the period at the end of paragraph (b) and inserting a semicolon; and

(2) by adding at the end thereof the following:

(c) The term 'Federal agency' has the meaning given such term section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472), which includes the Departments of the Army, Navy, and Air Force.

(b) AMENDMENTS TO SECTION 2.—Section 2 of such Act (41 U.S.C. 101) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(c) AMENDMENTS TO SECTION 3.—Section 3 of such Act (41 U.S.C. 102) is amended—

(1) by striking out "department or independent establishment" in such subsection and inserting "Federal agency"; and

(2) by striking out "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—Section 633 of the Act of October 29, 1949 (41 U.S.C. 10d) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(e) SECTION 301 WAIVER AUTHORITY.—Section 301 of the Trade Agreements Act of 1979 is amended by adding at the end thereof the following:

19 USC 2511.

"(d) LIMITATIONS ON WAIVER AUTHORITY NOT EFFECTIVE UNLESS PROVISION AMENDED.—The authority of the President under subsection (a) to waive any laws, regulation, procedure, or practice shall be effective notwithstanding any other provision of law hereafter enacted (excluding the provisions of and amendments made by the Buy American Act of 1988) unless such other provision specifically refers to and amends this section."

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment.

41 USC 10a note.

TITLE VIII—SMALL BUSINESS

Small Business
International
Trade and
Competitiveness
Act.
15 USC 631 note.

C. 8001. SHORT TITLE.

This title may be cited as the "Small Business International Trade Competitiveness Act".

C. 8002. DECLARATION OF POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by designating subsections (b) through (e) as subsections (c) through (f), respectively, and by inserting after subsection (a) the following:

"(b)(1) It is the declared policy of the Congress that the Federal Government, through the Small Business Administration, acting in cooperation with the Department of Commerce and other relevant State and Federal agencies, should aid and assist small businesses, as defined under this Act, to increase their ability to compete in international markets by—

"(A) enhancing their ability to export;

"(B) facilitating technology transfers;

"(C) enhancing their ability to compete effectively and efficiently against imports;

"(D) increasing the access of small businesses to long-term capital for the purchase of new plant and equipment used in the production of goods and services involved in international trade;

“(E) disseminating information concerning State, Federal, and private programs and initiatives to enhance the ability of small businesses to compete in international markets; and

“(F) ensuring that the interests of small businesses are adequately represented in bilateral and multilateral trade negotiations.

“(2) The Congress recognizes that the Department of Commerce is the principal Federal agency for trade development and export promotion and that the Department of Commerce and the Small Business Administration work together to advance joint interests. It is the purpose of this Act to enhance, not alter, their respective roles.”.

SEC. 8003. CHANGES IN EXISTING SMALL BUSINESS ADMINISTRATION INTERNATIONAL TRADE OFFICE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

“(b) The Office, working in close cooperation with the Department of Commerce and other relevant Federal agencies, Small Business Development Centers engaged in export promotion efforts, regional and local Administration offices, the small business community, and relevant State and local export promotion programs, shall—

“(1) assist in developing a distribution network for existing trade promotion, trade finance, trade adjustment, trade remedy assistance and trade data collection programs through use of the Administration’s regional and local offices and the Small Business Development Center network;

“(2) assist in the aggressive marketing of these programs and the dissemination of marketing information, including computerized marketing data, to the small business community; and

“(3) give preference in hiring or approving the transfer of any employee into the Office or to a position described in paragraph (8) below to otherwise qualified applicants who are fluent in a language in addition to English. Such employees shall accompany foreign trade missions if designated by the director of the Office and shall be available as needed to translate documents, interpret conversations and facilitate multilingual transactions including providing referral lists for translation services if required.”;

(2) in subsection (c), as redesignated, by redesignating paragraphs (1) through (3) as (6) through (8), respectively, and by inserting the following before paragraph (6), as redesignated:

“(1) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for (A) identifying sub-sectors of the small business community with strong export potential; (B) identifying areas of demand in foreign markets; (C) prescreening foreign buyers for commercial and credit purposes; and (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

“(2) in cooperation with the Department of Commerce, actively assist small businesses in the formation and utilization of export trading companies, export management companies and

research and development pools authorized under section 9 of this Act;

“(3) work in conjunction with other Federal agencies, regional and local offices of the Administration, the Small Business Development Center network, and the private sector to identify and publicize existing translation services, including those available through colleges and universities participating in the Small Business Development Center Program;

Schools and colleges.

“(4) work closely with the Department of Commerce and other relevant Federal agencies to—

“(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Produce figures) and disseminate that data to the public and to Congress;

Public information.

“(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the SIC codes to encompass industries currently overlooked and to create SIC codes for export trading companies and export management companies;

“(C) improve the utility and accessibility of existing export promotion programs for small businesses; and

“(D) increase the accessibility of the Export Trading Company contact facilitation service;

“(5) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector.”; and

(3) by adding after subsection (c), as redesignated, the following new subsections:

“(d) The Office shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector. To accomplish this goal, the Office shall work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

“(1) aggressively market existing Administration export financing and pre-export financing programs;

Marketing.

“(2) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

“(3) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

“(4) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

“(5) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

“(e) The Office shall—

“(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

“(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

Reports.

“(f) The Office shall report to the Committees on Small Business of the House of Representatives and the Senate on an annual basis as to its progress in implementing the requirements under this section.

Reports.

“(g) The Office, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

“(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

“(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

“(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

“(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

“(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.”.

15 USC 631 note.

SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631) is amended by adding the following at the end of subsection (z): “There are hereby authorized to be appropriated to the Administration for each of fiscal years 1988 and 1989, \$3,500,000 to carry out the provisions of section 22 of this Act and section 8011 of the Small Business International Trade and Competitiveness Act, of which \$350,000 is authorized to reimburse volunteers in the Service Corps of Retired Executives for their expenses in performing on-site counseling to actual or potential small business exporters, in participating in training sessions for such small businesses, and in preparing materials for use at such training sessions or during counseling.”.

8005. EXPORT FINANCING PROVIDED BY THE ADMINISTRATION.

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

“(14)(A) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and for pre-export financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.

Banks and
banking.

“(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

Loans.

“(C) The Administration shall aggressively market its export financing program to small businesses.”.

8006. SMALL BUSINESS DEVELOPMENT CENTERS.

a) **AUTHORIZATION OF APPROPRIATION.**—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (z): “There are hereby authorized to be appropriated to the Administration for each of the fiscal years 1988 and 1989, \$5,000,000 to carry out the provisions of section 21(a)(6).”.

b) **SBDC INFORMATION DISSEMINATION AND SERVICE DELIVERY.**—Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) in subsection (a)(1), by inserting after “enterprises;” the following: “management and technical assistance regarding small business participation in international markets, export promotion and technology transfer;”;

(2) in subsection (a), by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting the following after paragraph (1):

“(2) The Small Business Development Centers shall work in close cooperation with the Administration’s regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.”;

(3) by adding at the end of subsection (a) the following new paragraph:

“(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist—

Grants.

“(A) with the development and enhancement of exports by small business concerns; and

“(B) in technology transfer, as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be

effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a \$15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be \$100,000.”;

State and local
governments.

(4) in subsection (c)(3), by striking subparagraph (B) and by inserting the following new subparagraph (B):

Research and
development.

“(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

“(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

“(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

“(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;”;

(5) in subsection (c)(3), by redesignating subparagraphs (C) through (H) as subparagraphs (H) through (M), respectively, and by inserting the following new subparagraphs after subparagraph (B):

“(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center may work in cooperation with the State to establish a State international trade center for these purposes;

State and local
governments.

Marketing.

“(D) assisting small businesses in developing and implementing marketing and production strategies that will enable them to better compete within the domestic market;

“(E) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

“(F) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more

readily available to small business firms doing business, or attempting to develop business, in foreign markets;

“(G) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;”;

(6) in subsection (c), by adding the following new paragraphs:

State and local
governments.
Grants.

“(5) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under paragraph (a)(1) to such center, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

“(6) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration’s regional and local offices, the local small business community, and appropriate State and local agencies.

“(7) The Deputy Associate Administrator of the Small Business Development Center program, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system which will—

“(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

“(B) provide information central to technology transfer.”;

and

(7) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting the following new subsection after subsection (c):

“(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.”.

C. 8007. CAPITAL FORMATION.

(a) LOAN LIMITATIONS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking “and” at the end of clause (i) of paragraph (2)(B) and by adding after clause (ii) the following new clauses:

“(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than \$1,176,470; and

“(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds \$1,176,470;”;

(2) by amending paragraph (3) to read as follows:

“(3) No loan shall be made under this subsection—

“(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed \$750,000, except as provided in subparagraph (B);

“(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed \$1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of \$250,000; and

“(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed \$350,000.”;

(3) by adding the following new paragraphs after paragraph (15):

“(16)(A) The Administration may guarantee loans under this paragraph to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade, if the Administration determines that the appropriate upgrading of plant and equipment will allow the concern to improve its competitive position. Each such loan shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan. The lender shall agree to sell the loan in the secondary market as authorized in sections 5(f) and 5(g) of this Act within 180 days of the date of disbursement.

“(B) A small business concern shall be considered to be engaged in or adversely affected by international trade for purposes of this provision if such concern is, as determined by the Administration in accordance with regulations that it shall develop—

“(i) in a position to significantly expand existing export markets or develop new export markets; or

“(ii) adversely affected by import competition in that it is—

“(I) confronting increased direct competition with foreign firms in the relevant market; and

“(II) can demonstrate injury attributable to such competition.

“(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection.”; and

(4) by redesignating the existing paragraph (16) as paragraph (18).

Banks and
banking.

Banks and
banking.

b) DEVELOPMENT COMPANY LIMITS.—Section 502(2) of the Small Business Investment Act of 1985 (15 U.S.C. 636(a)(3)) is amended by striking "\$500,000" and by inserting in lieu thereof "\$750,000"

(c) REPORT.—The Administrator of the Small Business Administration shall report to the Committees on Small Business of the House of Representatives and the Senate within 6 months after the date of enactment of this title as to the viability of creating cooperative Federal-State guarantee programs, particularly for purposes of export financing, to encourage States to coinsure Federal loans, thus permitting the Federal Government to reduce its exposure.

15 USC 696.

State and local governments.
Loans.

C. 8008. SMALL BUSINESS INNOVATION RESEARCH.

15 USC 638 note.

Section 6 of Public Law 97-219, as amended by Public Law 99-443, further amended by adding the following at the end of subsection (c): "The report also shall include the Comptroller General's recommendations as to the advisability of amending the Small Business Innovation Research program to—

Reports.

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 per centum per year, until it is 3 per centum of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential;

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between \$20,000,000 and \$100,000,000 in extramural research and development funds annually."

C. 8009. GLOBALIZATION OF PRODUCTION.

Reports.
15 USC 631 note.

Within one year after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit a written report to the Committees on Small Business of the House of Representatives and the Senate, prepared by the Administration in conjunction with the Bureau of Census and in cooperation with other relevant agencies, that would—

(1) analyze to the extent possible the effect of increased outsourcing and other shifts in production arrangements on small firms, particularly manufacturing firms, within the United States subcontractor tier and to the extent that such data is not available determine methods by which such data may be collected;

(2) assess the impact of specific economic policies, including, but not limited to, procurement, tax and trade policies, in facilitating outsourcing and other international production arrangements; and

(3) make recommendations as to changes in Government policy that would improve the competitive position of smaller United States subcontractors, including recommendations as to incentives which could be provided to larger corporations to maximize their use of United States subcontractors and assist these subcontractors in changing production and marketing

strategies and in obtaining new business in domestic and foreign markets.

Reports.

SEC. 8010. SMALL BUSINESS TRADE REMEDY ASSISTANCE.

Not later than December 1, 1988, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Governmental Affairs and the Committee on Small Business of the Senate, as well as to other appropriate committees of the Senate, and to the Committee on Small Business and the Committee on Ways and Means of the House of Representatives on the costs incurred by small businesses in pursuing rights and remedies under the trade laws. Such report shall include an analysis of—

(1) the costs incurred by small businesses (and trade associations whose membership is primarily small business) in pursuing investigations under the trade remedy laws, including—

(A) antidumping investigations and proceedings under title VII of the Tariff Act of 1930;

(B) countervailing duty investigations and proceedings under section 303 or title VII of the Tariff Act of 1930;

(C) unfair trade practice investigations under section 337 of the Tariff Act of 1930;

(D) investigations under chapter 1 of title III of the Tariff Act of 1974;

(E) import relief investigations under chapter 1 of title II of the Trade Act of 1974;

(F) market disruption investigations under section 406 of the Trade Act of 1974; and

(G) national security relief investigations under section 232 of the Trade Expansion Act of 1962;

(2) the extent of assistance and information provided by the Trade Remedy Assistance Office of the United States International Trade Commission;

(3) the ability of small businesses to generate the information and resources needed for such investigations; and

(4) the costs and benefits to the Federal Government of either—

(A) providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies; or

(B) providing direct legal assistance to small businesses.

15 USC 631 note.

SEC. 8011. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) **SEMINAR.**—The Administration shall conduct a National Seminar on Small Business Exports within one year following enactment of this Act in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences.

(b) **ASSISTANCE BY EXPERTS.**—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) **RECOMMENDATIONS CONCERNING UTILITY OF INTERNATIONAL CONFERENCE.**—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT.

C. 8012. TRADE NEGOTIATIONS.

15 USC 631 note.

It is the sense of the Congress that the interests of the small business community have not been adequately represented in trade policy formulation and in trade negotiations. Therefore, it is the sense of the Congress that the Administrator of the Small Business Administration should be appointed as a member of the Trade Policy Committee and that the United States Trade Representative should consult with the Small Business Administration and its Office of Advocacy in trade policy formulation and in trade negotiations.

Further, it is the sense of the Congress that the United States Trade Representative would better serve the needs of the small business community with full-time staff assistance with responsibilities for small business trade issues.

Further, it is the sense of the Congress that the United States Trade Representative should appoint a special trade assistant for small business.

C. 8013. PROMULGATION OF REGULATIONS.

15 USC 631 note.

Notwithstanding any law, rule, or regulation, the Small Business Administration shall promulgate final regulations to carry out the provisions of this title within six months after the date of enactment of this title.

C. 8014. EFFECTIVE DATE.

15 USC 631 note.

This title shall become effective on the date of its enactment.

TITLE IX—PATENTS

Subtitle A—Process Patents

Process Patent
Amendments
Act of 1988.

C. 9001. SHORT TITLE.

35 USC 1 note.

This subtitle may be cited as the “Process Patent Amendments Act of 1988”.

C. 9002. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 of title 35, United States Code, is amended by inserting after “United States” the following: “and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,”.

C. 9003. INFRINGEMENT FOR IMPORTATION, USE, OR SALE.

Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

“(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the noncommercial use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other use or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

- “(1) it is materially changed by subsequent processes; or
- “(2) it becomes a trivial and nonessential component of another product.”.

SEC. 9004. DAMAGES FOR INFRINGEMENT.

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 of title 35, United States Code, is amended—

(1) in the section heading by striking “Limitation on damages” and inserting “Limitation on damages and other remedies”;

(2) by inserting “(a)” before “Patentees”; and

(3) by adding at the end the following:

“(b)(1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 9006 of the Process Patent Amendments Act of 1988. The modifications of remedies provided in this subsection shall not be available to any person who—

“(A) practiced the patented process;

“(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

“(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

“(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to, the person subject to liability under such section before that person had notice of infringement with respect to that product. The person subject to liability shall bear the burden of proving any such possession or transit.

Courts, U.S.

“(3)(A) In making a determination with respect to the remedy in an action brought for infringement under section 271(g), the court shall consider—

“(i) the good faith demonstrated by the defendant with respect to a request for disclosure,

“(ii) the good faith demonstrated by the plaintiff with respect to a request for disclosure, and

“(iii) the need to restore the exclusive rights secured by the patent.

“(B) For purposes of subparagraph (A), the following are evidence of good faith:

“(i) a request for disclosure made by the defendant;

“(ii) a response within a reasonable time by the person receiving the request for disclosure; and

“(iii) the submission of the response by the defendant to the manufacturer, or if the manufacturer is not known, to the

Claims.

supplier, of the product to be purchased by the defendant, together with a request for a written statement that the process claimed in any patent disclosed in the response is not used to produce such product.

failure to perform any acts described in the preceding sentence evidence of absence of good faith unless there are mitigating circumstances. Mitigating circumstances include the case in which, to the nature of the product, the number of sources for the product, or like commercial circumstances, a request for disclosure is not necessary or practicable to avoid infringement.

(A) For purposes of this subsection, a 'request for disclosure' means a written request made to a person then engaged in the manufacture of a product to identify all process patents owned by or licensed to that person, as of the time of the request, that the person reasonably believes could be asserted to be infringed under section 271(g) if that product were imported into, or sold or used in, the United States by an unauthorized person. A request for disclosure is further limited to a request—

"(i) which is made by a person regularly engaged in the manufacture of the same type of products as those manufactured by the person to whom the request is directed, or which includes facts showing that the person making the request plans to engage in the sale of such products in the United States;

"(ii) which is made by such person before the person's first importation, use, or sale of units of the product produced by an infringing process and before the person had notice of infringement with respect to the product; and

"(iii) which includes a representation by the person making the request that such person will promptly submit the patents identified pursuant to the request to the manufacturer, or if the manufacturer is not known, to the supplier, of the product to be purchased by the person making the request, and will request from that manufacturer or supplier a written statement that one of the processes claimed in those patents is used in the manufacture of the product.

(B) In the case of a request for disclosure received by a person to whom a patent is licensed, that person shall either identify the licensor or promptly notify the licensor of the request for disclosure.

(C) A person who has marked, in the manner prescribed by section (a), the number of the process patent on all products made by the patented process which have been sold by that person in the United States before a request for disclosure is received is not required to respond to the request for disclosure. For purposes of the preceding sentence, the term 'all products' does not include products sold before the effective date of the Process Patent Amendments Act of 1988.

(5)(A) For purposes of this subsection, notice of infringement means actual knowledge, or receipt by a person of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person that it is likely that a product was made by a process patented in the United States.

(B) A written notification from the patent holder charging a person with infringement shall specify the patented process alleged to have been used and the reasons for a good faith belief that such process was used. The patent holder shall include in the notification such information as is reasonably necessary to explain fairly the

patent holder's belief, except that the patent holder is not required to disclose any trade secret information.

“(C) A person who receives a written notification described in subparagraph (B) or a written response to a request for disclosure described in paragraph (4) shall be deemed to have notice of infringement with respect to any patent referred to in such written notification or response unless that person, absent mitigating circumstances—

“(i) promptly transmits the written notification or response to the manufacturer or, if the manufacturer is not known, to the supplier, of the product purchased or to be purchased by that person; and

“(ii) receives a written statement from the manufacturer or supplier which on its face sets forth a well grounded factual basis for a belief that the identified patents are not infringed.

“(D) For purposes of this subsection, a person who obtains a product made by a process patented in the United States in a quantity which is abnormally large in relation to the volume of business of such person or an efficient inventory level shall be rebuttably presumed to have actual knowledge that the product was made by such patented process.

“(6) A person who receives a response to a request for disclosure under this subsection shall pay to the person to whom the request was made a reasonable fee to cover actual costs incurred in complying with the request, which may not exceed the cost of a commercially available automated patent search of the matter involved, but in no case more than \$500.”.

(b) **TECHNICAL AMENDMENT.**—The item relating to section 287 of title 35, United States Code, in the table of sections for chapter 29 of such title is amended to read as follows:

“287. Limitation on damages and other remedies; marking and notice.”.

SEC. 9005. PRESUMPTION IN CERTAIN INFRINGEMENT ACTIONS.

(a) **PRESUMPTION THAT PRODUCT MADE BY PATENTED PROCESS.**—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

“§ 295. Presumption: Product made by patented process

“In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

“(1) that a substantial likelihood exists that the product was made by the patented process, and

“(2) that the plaintiff has made a reasonable effort to determine the process actually used in the production of the product and was unable to so determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.”.

(b) **CONFORMING AMENDMENT.**—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

“295. Presumption: Product made by patented process.”.

SEC. 9006. EFFECTIVE DATE.

(a) **IN GENERAL.**—The amendments made by this subtitle take effect 6 months after the date of enactment of this Act and, subject

sections (b) and (c), shall apply only with respect to products or imported after the effective date of the amendments made by this subtitle.

EXCEPTIONS.—The amendments made by this subtitle shall not apply to or affect the right of any person or any successor in business of any person to continue to use, sell, or import any specific product in substantial and continuous sale or use by such person in the United States on January 1, 1988, or for which substantial preparation by such person for such sale or use was made before that date, to the extent equitable for the protection of commercial interests of such person or business commenced in the United States on or before such date. This subsection shall not apply to any person or any successor in business of such person using, selling, or importing a product produced by a patented process that is the subject of a civil patent enforcement action commenced before January 1, 1988, or before the International Trade Commission, that is pending or in which an order has been entered.

RETENTION OF OTHER REMEDIES.—The amendments made by this subtitle shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

207. REPORTS TO CONGRESS.

35 USC 271 note.

CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to Congress on the effect of the amendments made by this subtitle on those domestic industries that submit complaints to the Department of Commerce, during that 1-year period, alleging that their domestic sources of supply have been adversely affected by the amendments made by this subtitle.

WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which successively begin on the effective date of the amendments made by this subtitle and ending five years after that effective date.

Subtitle B—Foreign Filing

201. INCREASED EFFECTIVENESS OF PATENT LAW.

Patent Law
Foreign Filing
Amendments
Act of 1988.
35 USC 1 note.

SHORT TITLE.—This section may be cited as the “Patent Law Foreign Filing Amendments Act of 1988”.

FILING OF APPLICATIONS IN FOREIGN COUNTRIES.—(1) Section 101 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking out “inadvertently”; and

(ii) inserting “through error and without deceptive intent” after “filed abroad”; and

(B) by adding at the end thereof the following new paragraph:
The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter application upon which the request for the license is based is or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available

for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.”.

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: “, unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.”.

(3) Section 186 of title 35, United States Code, is amended by inserting “willfully” after “whoever”, the second place it appears.

35 USC 184 note.

(c) REGULATIONS.—The Commissioner of Patents and Trademarks shall prescribe such regulations as may be necessary to implement the amendments made by this section.

35 USC 184 note.

(d) EFFECTIVE DATE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after such date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

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(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used, prior to such date of enactment, anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment of this section, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before such date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment of this section to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after such date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents, determined on the basis of the substantive law in effect before the date of enactment of this section.

Subtitle C—Patent Term Extension

9201. PATENT TERM EXTENSION.

GENERAL RULE.—Except as provided in subsection (b), the term of a United States Patent number 3,674,836 issued for the drug Lopid shall be extended in accordance with section 9202 for 3 years and 6 months from the date of its expiration.

CONDITIONS.—

(1) No extension of the term of the patent described in subsection (a) may be made unless there has been submitted for the drug Lopid a supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug.

(2) If the Secretary of Health and Human Services makes a final determination, after the date of the enactment of this Act, disapproving the first supplemental new drug application submitted under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug Lopid—

(A) no extension shall be granted for the term of the patent under subsection (a) if the final determination of disapproval is issued before the date the term of the patent is extended under subsection (a), and

(B) if an extension has been granted under subsection (a) before the final determination of disapproval is issued, the extension shall be terminated as of the date of such disapproval.

The Secretary shall promptly notify the Commissioner of Patents and Trademarks of such a disapproval.

9202. PROCEDURE.

NOTICE.—To receive the patent term extension under section 9201(a), the owner of record of the patent shall notify the Commissioner of Patents and Trademarks before January 4, 1989, of the submission of the supplemental new drug application required under section 9201(b)(1).

EXTENSION.—On receipt of the notice under subsection (a), the Commissioner shall, in accordance with section 9201, promptly issue to the owner of record of the patent a certificate of extension, under which stating the fact and length of the extension and indicating that the extension is limited to the subject matter of claim 1 (insofar as claim 1 is needed to cover the compound described in claim 6 and conditionally insofar as claim 1 is needed to cover the pharmaceutical acceptable salts of the compound described in claim 6) and claim 6 of the patent. Such certificate shall be recorded in the official file of the patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice

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shall be published in the Official Gazette of the Patent and Trademark Office. If the extension of the term of the patent is to be terminated under section 9201(b), the Commissioner shall promptly issue a certificate of termination of extension, under seal, stating the fact that the patent term extension is terminated, effective on the date of the final determination that the supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act was disapproved. Such certificate shall be recorded in the official file of the patent and such certificate shall be considered as a part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.

Records.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

Foreign
Shipping
Practices Act of
1988.
Maritime affairs.
46 USC app. 1701
note.

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the "Foreign Shipping Practices Act of 1988".

46 USC app.
1710a.

SEC. 10002. FOREIGN LAWS AND PRACTICES.

(a) DEFINITIONS.—For purposes of this section—

(1) "common carrier", "marine terminal operator", "non-vessel-operating common carrier", "ocean common carrier", "person", "shipper", "shippers' association", and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

(2) "foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(3) "maritime services" means port-to-port carriage of cargo by the vessels operated by ocean common carriers;

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(5) "United States carrier" means an ocean common carrier which operates vessels documented under the laws of the United States; and

(6) "United States oceanborne trade" means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

INVESTIGATIONS.—(1) Investigations under subsection (b) of this section may be initiated by the Commission on its own motion or on the petition of any person, including any common carrier, shipper, carriers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States.

The Commission shall complete any such investigation and issue a decision within 120 days after it is initiated, except that the Commission may extend such 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (b) of this section exists. Any notice providing such an extension shall clearly state the reasons for such extension.

INFORMATION REQUESTS.—(1) In order to further the purposes of subsection (b) of this section, the Commission may, by order, require any person (including any common carrier, shipper, shipper's association, ocean freight forwarder, or marine terminal operator) or any officer, receiver, trustee, lessee, agent or employee of such person to file with the Commission any periodic or special report, answer to questions, documentary material, or other information that the Commission considers necessary or appropriate. The Commission may require that the response to any such order shall be made under oath. Such response shall be furnished in the form prescribed within the time prescribed by the Commission.

In an investigation under subsection (b) of this section, the Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other documents.

Notwithstanding any other provision of law, the Commission may, in its discretion, determine that any information submitted to the Commission in response to a request under this subsection, or otherwise, shall be withheld from disclosure to the public.

Classified
information.

ACTION AGAINST FOREIGN CARRIERS.—(1) Whenever, after providing an opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the Commission shall take such action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include—

(A) limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(B) suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States waters of which it is a member for such period as the Commission specifies;

(C) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

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(D) a fee, not to exceed \$1,000,000 per voyage.

(2) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this subsection.

(3) Before a determination under this subsection becomes effective or a request is made under subsection (f) of this section, the determination shall be submitted immediately to the President who may, within 10 days after receiving such determination, disapprove the determination in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(f) **ACTIONS UPON REQUEST OF THE COMMISSION.**—Whenever the conditions specified in subsection (b) of this section are found by the Commission to exist, upon the request of the Commission—

(1) the collector of customs at any port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section; and

(2) the Secretary of the department in which the Coast Guard is operating shall deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section to any port or place in the United States or the navigable waters of the United States, or shall detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States.

(g) **REPORT.**—The Commission shall include in its annual report to Congress—

(1) a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in subsection (b) of this section being investigated or found to exist in foreign countries;

(3) any actions being taken by the Commission to offset such conditions;

(4) any recommendations for additional legislation to offset such conditions; and

(5) a list of petitions filed under subsection (c) of this section that the Commission rejected, and the reasons for each such rejection.

(h) The actions against foreign carriers authorized in subsections (e) and (f) of this section may be used in the administration and enforcement of section 13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5)) or section 19(1)(b) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876).

(i) Any rule, regulation or final order of the Commission issued under this section shall be reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28, United States Code.

SEC. 10003. MOBILE TRADE FAIRS.

(a) Section 212(B)(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122b(c)), is amended to read as follows:

In addition to any amounts appropriated to carry out trade mission activities, the President may use foreign currencies by or owed to the United States to carry out this section.” or one year after the date of enactment of this Act, a vessel undergoing repair or retrofitting for use solely for mobile air purposes is deemed to be out of commission under section of title 46, United States Code, during the repair or retrofitting.

46 USC 3302
note.

title B—International Air Transportation

011. MAXIMUM PERIOD FOR TAKING ACTION WITH RESPECT TO COMPLAINTS.

Section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended—

(1) in the third sentence by striking out “but in no event may” and all that follows through “180 days” and inserting in lieu thereof “but the aggregate period for taking action under this subsection may not exceed 90 days”; and

(2) by inserting after the third sentence the following new sentence: “However, if on the last day of such 90-day period, the Secretary finds that—

“(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

“(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

“(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.”.

012. VIEWS OF THE DEPARTMENT OF COMMERCE AND OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)) is amended—

(1) by redesignating paragraph (3), and any references hereto, as paragraph (4);

(2) by striking out the last sentence of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

In considering any complaint, or in any proceedings under its initiative, under this subsection, the Secretary shall—

“(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and

“(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.”.

SEC. 10013. REPORTING ON ACTIONS TAKEN WITH RESPECT TO COMPLAINTS.

Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b) is amended by adding at the end thereof the following new subsection:

“(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to the complaint.”.

Approved August 23, 1988.

LEGISLATIVE HISTORY—H.R. 4848:

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 13, considered and passed House.

Aug. 2, 3, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 23, Presidential remarks.

Public Law 100-419
Congress

An Act

Provide for the establishment of an economic development plan for, and Federal
resources and assistance to, the Northwestern Band of the Shoshoni Nation, and for
other purposes.

Sept. 8, 1988

[H.R. 2370]

As enacted by the Senate and House of Representatives of the
United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Economic Development Plan for the
Northwestern Band of the Shoshoni Nation Act”.

SECTION 2. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—
(1)(A) enter into negotiations with the tribal council with
respect to establishing a plan for economic development for the
tribe, including (but not limited to) the provision of Federal
services to the tribe; and

(B) in accordance with this section and not later than 2 years
after the date of the enactment of this Act, develop such a plan;
and

(2) upon the approval of such plan by the tribal council (and
after consultation with the State and local officials pursuant to
subsection (b)), the Secretary shall submit such plan to the
Congress.

(c) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—
To ensure that legitimate State and local interests are not preju-
diced by the proposed economic development plan, the Secretary
shall notify and consult with the appropriate officials of the State
and all appropriate local governmental officials in the State. The
Secretary shall provide complete information on the proposed plan
to such officials, including the restrictions on such proposed plan
imposed by subsection (c). During any consultation by the Secretary
under this subsection, the Secretary shall provide such information
as the Secretary may possess, and shall request comments and
additional information on the extent of any State or local service to
the tribe.

(d) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed
by the Secretary under subsection (a) shall provide that—

(1) any real property transferred by the tribe or any member
to the Secretary shall be taken and held in the name of the
United States in trust for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant
to such plan shall be subject to—

(A) all legal rights and interests in such land existing at
the time of the acquisition of such land by the Secretary,
including any lien, mortgage, or previously levied and
outstanding State or local tax; and

(B) foreclosure or sale in accordance with the laws of the
State pursuant to the terms of any valid obligation in

Economic
Development
Plan for the
Northwestern
Band of the
Shoshoni Nation
Act.

Real property.

Taxes.

Taxes.

existence at the time of the acquisition of such land by the Secretary;

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind; and

(4) the territorial jurisdiction of the tribe shall be limited to real property taken or held in trust by the Secretary for the tribe or individual members of the tribe.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 3. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) The term "Constitution" means the Constitution and Bylaws of the Northwestern Band of the Shoshoni Nation in effect on the date of the enactment of this Act.

(2) The term "member" means those persons eligible for enrollment under the Constitution of the Northwestern Band of the Shoshoni Nation.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "State" means the State of Utah.

(5) The term "tribe" means the Northwestern Band of the Shoshoni Nation.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 2370:

HOUSE REPORTS: No. 100-468 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-477 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Dec. 14, considered and passed House.

Vol. 134 (1988): Aug. 11, considered and passed Senate.

Public Law 100-420
100th Congress

An Act

To clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes.

Sept. 8, 1988

[H.R. 3679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lac Vieux Desert Band of Lake Superior Chippewa Indians Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Lac Vieux Desert Band of Lake Superior Chippewa Indians, although currently recognized by the Federal Government as part of the Keweenaw Bay Indian Community, has historically existed, and continues to exist, as a separate and distinct Indian tribe that is located over 75 miles from the Keweenaw Bay Indian Community;

(2) the Lac Vieux Desert Band consists of approximately 250 members who continue to reside close to their ancestral homeland near the town of Watersmeet, Michigan;

(3) the Lac Vieux Desert Band entered into two treaties with the United States as a distinct tribal entity (7 Stat. 591, 10 Stat. 1109);

(4) members of the Lac Vieux Desert Band currently reside on or otherwise occupy lands within the Township of Watersmeet, Michigan, which are held by the United States in trust for the Keweenaw Bay Indian Community, and currently receive limited Federal benefits through the Keweenaw Bay Indian Community; and

(5) because of its distance from Keweenaw Bay and the failure of the United States to recognize the independent status of the tribe, the Lac Vieux Desert Band and its members receive only limited benefits to which the tribe and its members are entitled.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term “Band” means the Lac Vieux Desert Band of Lake Superior Chippewa Indians;

(2) the term “member” means those individuals eligible for enrollment under section 5 in the Band; and

(3) the term “Secretary” means the Secretary of the Interior.

SEC. 4. FEDERAL TRUST RELATIONSHIP.

(a) The Federal recognition of the Band and the trust relationship between the United States and the Band is hereby reaffirmed. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians,

Lac Vieux
Desert Band of
Lake Superior
Chippewa
Indians Act.
25 USC 1300h
note.
25 USC 1300h.

25 USC 1300h-1.

25 USC 1300h-2.

Indian tribes, or Indian reservations which are not inconsistent with this Act shall apply to the members of the Band, and the reservation. The Band is hereby recognized as an independent tribal entity, separate from the Keweenaw Bay Indian Community or any other tribe.

(b) The Band and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

Records.
25 USC 1300h-3.

SEC. 5. ESTABLISHMENT OF A BAND ROLL.

(a) Within six months after the date of enactment of this Act, the Band shall submit to the Secretary, for approval, its base membership roll which shall include only individuals who are not members of any other federally recognized Indian tribe or who have relinquished membership in such tribe and who are eligible for membership under subsection (b).

(b) An individual is eligible for inclusion on the base membership roll in the Band if that individual—

(1) is on the tribal membership roll as maintained by the Band prior to the date of enactment of this Act and is on file with the Bureau of Indian Affairs as of the date of enactment of this Act; or

(2) is at least one-quarter Chippewa Indian blood and is a person or a descendant of a person who was listed, or could have been listed, on any of the census of the Lac Vieux Desert Band prepared by the Superintendent of the MacKinaw Agency prior to 1928 or by the Superintendent of the Great Lakes agency on or prior to 1940.

(c) The Band shall ensure that the roll, once completed and approved, is maintained and kept current.

(d)(1) Notwithstanding paragraph (b) of section 6 and except as provided in paragraph (2), future membership in the tribe shall be limited to descendants of individuals whose names appear on the base roll and who have at least one-quarter Chippewa blood quantum.

(2) The Band may modify such quarter Chippewa blood quantum requirement if such modification is adopted in the tribal election as prescribed under paragraph (a) of section 6 or in a referendum by a majority of the voters and approved by the Secretary of the Interior. The Secretary shall approve such new membership requirements once adopted by the tribal voters unless he finds that the proposed amendment is contrary to Federal law.

25 USC 1300h-4. SEC. 6. ORGANIZATION OF TRIBE; CONSTITUTION AND GOVERNING BODY.

(a) Within one year following the enactment of this Act, the Band's governing body shall propose a governing document, and the Secretary shall conduct, pursuant to section 16 of the Act of June 18, 1934 (48 Stat. 984), and in accordance with applicable rules and regulations, an election as to the adoption of the proposed document. The Secretary shall approve the governing document if approved by a majority of the tribal voters unless the Secretary finds that the proposed constitution, or any provision thereof, is contrary to Federal law.

(b) Until the Band adopts and the Secretary approves a governing document, the Band's interim governing document shall be the Lac Vieux Desert Constitution which bears the approval date of June 18, 1986, and a copy of which is in the files of the Division of Tribal

Government Services, Bureau of Indian Affairs, Washington, District of Columbia.

(c) Until the Band elects a new governing body pursuant to the new governing document, the Band's governing body shall consist of its current Band officers, elected at the Band's election held on November 5, 1986, or any new officers selected under election procedures of the interim governing document identified under subsection (b) of this section.

SEC. 7. LAND ACQUISITION; ESTABLISHMENT OF FEDERAL RESERVATION.

Michigan.
25 USC 1300h-5.

(a) The Keweenaw Bay Indian Community is hereby authorized to convey, by deed to the United States in trust for the Band, all lands located in Gogebic County, Michigan, which, on the date of enactment of this Act, are held in trust by the United States for the benefit of said community. The Secretary is hereby authorized and directed to approve and accept the deed with the expressed consent of the Keweenaw Bay Indian Community and the Band. Upon acceptance of the deed, all lands described therein shall constitute the reservation of the Band.

(b) The Secretary may place such other land into trust for the benefit of the Band pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 84), or any other Act: *Provided*, That any such land placed in trust which is located in Gogebic County, shall become part of the reservation.

SEC. 8. DISTRIBUTION OF FUNDS.

25 USC 1300h-6.

(a) For the purpose of proceeding with the per capita distribution of the funds appropriated and subsequently apportioned to the Keweenaw Bay Indian Community in satisfaction of judgments awarded the Lake Superior Chippewas and Mississippi Chippewas in dockets numbered 18-C, 18-T, 18-S, and 18-U of the Indian Claims Commission, the Secretary of the Interior shall accept the tribe's certification of enrolled membership.

(b) Individuals who are or become members of the Lac Vieux Desert Band and who are eligible for per capita shares out of funds apportioned to the Keweenaw Bay Indian Community or Sokaogan Chippewa Community shall continue to be eligible for such per capita payments notwithstanding their relinquishment of their enrollment in either community pursuant to section 5 of this Act.

SEC. 9. CONSTITUTIONAL AMENDMENT.

25 USC 1300h-7.

Notwithstanding any other law or provision in the constitution of the Keweenaw Bay Indian Community, the Secretary shall call an election within 90 days of receipt of a resolution of the Keweenaw Bay Tribal Council requesting an election for the purpose of amending provisions of the constitution of the Keweenaw Bay Indian Community.

SEC. 10. COMPLIANCE WITH BUDGET ACT.

25 USC 1300h-8.

Notwithstanding any other provision of this Act, any spending authority provided under this Act shall be effective for any fiscal

year only to such extent or in such amounts as are provided in advance in appropriation Acts. For purposes of this Act, the term “spending authority” has the meaning provided in section 401(c)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 3679 (S. 1735):

HOUSE REPORTS: No. 100-584 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-414 accompanying S. 1735 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

May 2, considered and passed House.

July 14, S. 1735 considered and passed Senate; proceedings vacated and H.R. 3679, amended, passed in lieu.

Aug. 10, House concurred in Senate amendment.

Public Law 100-421
100th Congress

An Act

To authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

Sept. 8, 1988

[H.R. 3960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF CHARLES PINCKNEY NATIONAL HISTORIC SITE.

Conservation.
National parks,
monuments, etc.
16 USC 461 note.

(a) **ESTABLISHMENT.**—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Charles Pinckney National Historic Site (hereinafter in this Act referred to as the “historic site”) in the State of South Carolina.

(b) **MAP.**—The historic site shall consist of the lands and interests in lands, and improvements thereon, including the Snee Farm, as generally depicted on the map entitled “Charles Pinckney National Historic Site”, numbered NA-CPNHS 80,000 and dated June 1988.

SEC. 2. ACQUISITION OF PROPERTY.

Gifts and
property.

The Secretary of the Interior (hereinafter in this Act referred to as the “Secretary”) is authorized to acquire lands, interests in lands, and improvements within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by the same methods, personal property associated with, and appropriate for interpretation of, the site.

SEC. 3. ADMINISTRATION OF HISTORIC SITE.

The Secretary shall administer the historic site in accordance with the provisions of law generally applicable to units of the National Park System, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the historic site, the Secretary shall—

- (1) provide the interpretation of the life of Charles Pinckney;
- (2) preserve and interpret Snee Farm, home of Charles Pinckney; and
- (3) present the history of the United States as a young Nation.

SEC. 4. GENERAL MANAGEMENT PLAN.

Within 3 complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 3960:

HOUSE REPORTS: No. 100-698 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-453 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 20, considered and passed House.

Aug. 10, considered and passed Senate.

Joint Resolution

designating the week beginning September 18, 1988, as "Emergency Medical Services Week".

Sept. 8, 1988

[H.J. Res. 539]

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel and reciprocal recognition of training and credentials by the States;

Whereas the designation of Emergency Medical Services Week will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating Emergency Medical Services Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 18, 1988, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 539 (S.J. Res. 312):

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 13, considered and passed House.

July 26, S.J. Res. 312 considered and passed Senate.

Aug. 11, H.J. Res. 539 considered and passed Senate.

Public Law 100-423
100th Congress

Joint Resolution

Sept. 8, 1988
[H.J. Res. 583]

Designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week".

Whereas outpatient surgery currently accounts for one-third of all surgical procedures performed in the United States;

Whereas the use of outpatient surgery has reduced hospital costs while improving the quality of health care;

Whereas Americans are increasingly choosing outpatient surgery over traditional inpatient surgery because it is more convenient, less time consuming, and requires less of a change of lifestyle of patients and their families; and

Whereas the number of outpatient surgical procedures performed in the United States is expected to increase from over 6 million in 1985 to over 11 million in 1995: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 11, 1988, is designated as "National Outpatient Ambulatory Surgery Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 583:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 9, considered and passed House.

Aug. 11, considered and passed Senate.

Public Law 100-424
100th Congress

An Act

To provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes.

Sept. 9, 1988

[H.R. 1841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Commercial Fishing Industry Vessel Safety Act of 1988”.

Commercial
Fishing Industry
Vessel Safety
Act of 1988.
46 USC 2101
note.

SEC. 2. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSEL SAFETY REQUIREMENTS.

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended to read as follows:

**“CHAPTER 45—UNINSPECTED COMMERCIAL
FISHING INDUSTRY VESSELS**

“Sec.

“4501. Application.

“4502. Safety standards.

“4503. Fish processing vessel certification.

“4504. Prohibited acts.

“4505. Termination of unsafe operations.

“4506. Exemptions.

“4507. Penalties.

“4508. Commercial Fishing Industry Vessel Advisory Committee.

“§ 4501. Application

46 USC 4501.

“(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

“(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

“§ 4502. Safety standards

46 USC 4502.
Regulations.

“(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

“(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

“(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

“(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

“(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

“(5) visual distress signals;

"(6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;

"(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas; and

"(8) a placard as required by regulations prescribed under section 10603(b) of this title.

Regulations.

"(b) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

"(1) alerting and locating equipment, including emergency position indicating radio beacons;

"(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(6) first aid equipment, including medicine chests; and

"(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

"(1) navigation equipment, including radars and fathometers;

"(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(4) use and installation of insulation material;

"(5) storage methods for flammable or combustible material; and

"(6) fuel, ventilation, and electrical systems.

Regulations.

"(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

"(A) that was built after December 31, 1989; or

"(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

"(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

"(e) In prescribing regulations under this chapter, the Secretary—

“(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

“(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

(f) The Secretary shall examine a fish processing vessel at least once every two years to ensure that the vessel complies with the requirements of this chapter.

4503. Fish processing vessel certification

46 USC 4503.

“(a) A fish processing vessel to which this section applies may not be operated unless the vessel—

“(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

“(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

“(b) This section applies to a fish processing vessel to which this chapter applies that—

“(1) is built after July 27, 1990; or

“(2) undergoes a major conversion completed after that date.

4504. Prohibited acts

46 USC 4504.

“(A) A person may not operate a vessel in violation of this chapter or regulation prescribed under this chapter.

4505. Termination of unsafe operations

46 USC 4505.

“(A) An official authorized to enforce this chapter—

“(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

“(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

4506. Exemptions

46 USC 4506.

“(a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

“(1) good cause exists for granting an exemption; and

“(2) the safety of the vessel and those on board will not be adversely affected.

“(b) A vessel to which this chapter applies is exempt from section 4502(b)(2) of this title if it—

“(1) is less than 36 feet in length; and

“(2) is not operating on the high seas.

46 USC 4507.

“§ 4507. Penalties

“(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than \$5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

“(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

46 USC 4508.
Establishment.**“§ 4508. Commercial Fishing Industry Vessel Advisory Committee**

“(a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

“(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

“(2) may review proposed regulations under this chapter;

“(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

“(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

“(b)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

“(A) ten members from the commercial fishing industry who—

“(i) reflect a regional and representational balance; and

“(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

“(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

“(C) one member representing each of—

“(i) naval architects or marine surveyors;

“(ii) manufacturers of equipment for vessels to which this chapter applies;

“(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

“(iv) underwriters that insure vessels to which this chapter applies.

“(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of

Federal
Register,
publication.

the Committee. An individual may be appointed to a term as a member of the Committee more than once.

“(3)(A) A member of the Committee shall serve a term of three years.

“(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

“(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

“(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary’s designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

“(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

“(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

“(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

“(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

“(B) travel or transportation expenses under section 5703 of title 5.

“(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

“(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member’s service to the Committee.

“(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

“(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on September 30, 1992.

Termination
date.

“(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.”.

(b) INITIAL APPOINTMENTS TO COMMERCIAL FISHING INDUSTRY ADVISORY COMMITTEE.—

46 USC 4508
note.

(1) **TERMS OF INITIAL APPOINTMENTS.**—Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)—

(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee; and

(B) terms may be adjusted to coincide with the Government's fiscal year.

(2) **COMPLETION OF INITIAL APPOINTMENTS.**—The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act.

(c) **REPEAL.**—Subsection (e) of section 4102 of title 46, United States Code, is repealed.

46 USC 7101
note.

SEC. 3. PLAN FOR LICENSING OPERATORS OF FISHING INDUSTRY VESSELS.

The Secretary of the department in which the Coast Guard is operating shall, within two years after the date of enactment of this Act, and in close consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), prepare and submit to the Congress a plan for the licensing of operators of documented fishing, fish processing, and fish tender vessels. The plan shall take into consideration the nature and variety of the different United States fisheries and of the vessels engaged in those fisheries, the need to license all operators or only those working in certain types of fisheries or vessels, and other relevant factors.

SEC. 4. ACCIDENT DATA STATISTICS.

(a) **COMPILATION AND SUBMISSION OF DATA.**—Chapter 61 of title 46, United States Code, is amended by adding at the end the following new section:

Records.
Insurance.
46 USC 6104.

“§ 6104. Commercial fishing industry vessel casualty statistics

“(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing vessels, fish processing vessels, and fish tender vessels.

“(b) A person underwriting primary insurance for a fishing vessel, fish processing vessel, or fish tender vessel shall submit periodically to the Secretary data concerning marine casualties that is required by regulations prescribed by the Secretary.

Regulations.

“(c) After consulting with the insurance industry, the Secretary shall prescribe regulations under this section to gather a statistical base for analyzing vessel risks.

“(d) The Secretary may delegate to a qualified person that has knowledge and experience in the collection of statistical insurance data the authority of the Secretary under this section to compile statistics from insurers.”

(b) **PENALTY.**—Section 6103 of title 46, United States Code, is amended as follows:

(1) before “An” insert “(a)”; and

(2) add the following new subsection:

“(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than \$5,000.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 61 of title 46, United States Code, is amended by adding at the end the following:

“104. Commercial fishing industry vessel casualty statistics.”.

C. 5. STUDIES.

(a) FISHING INDUSTRY VESSEL INSPECTION STUDY.—The Secretary of Transportation, utilizing the National Academy of Engineering and in consultation with the National Transportation Safety Board, the Commercial Fishing Industry Vessel Advisory Committee, and the fishing industry, shall—

46 USC 4502
note.

(1) conduct a study of the safety problems on fishing industry vessels;

(2) make recommendations regarding whether a vessel inspection program should be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on the nature and scope of that inspection; and

(3) submit the study and recommendations to Congress before January 1, 1990.

(b) UNCLASSIFIED FISH PROCESSING VESSEL STUDY.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), and with representatives of persons operating fish processing vessels—

(1) shall conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by the Secretary;

(2) shall make recommendations regarding what hull and machinery requirements should apply to vessels described in paragraph (1) to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea; and

(3) shall submit the study and recommendations to Congress before July 28, 1991.

C. 6. FISHING VOYAGE REQUIREMENTS.

(a) ENACTMENT OF NEW CHAPTER IN TITLE 46.—Title 46, United States Code, is amended by inserting after chapter 105 the following:

“CHAPTER 106—FISHING VOYAGES

sec.
10601. Fishing agreements.

10602. Recovery of wages and shares of fish under agreement.

10603. Seaman's duty to notify employer regarding illness, disability, and injury.

10601. Fishing agreements

46 USC 10601.

“(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is—

“(1) at least 20 gross tons; and

“(2) on a voyage from a port in the United States.

“(b) The agreement shall be signed also by the owner of the vessel.

- Wages.
- “(c) The agreement shall—
- “(1) state the period of effectiveness of the agreement;
- “(2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and
- “(3) include other agreed terms.
- 46 USC 10602. **“§ 10602. Recovery of wages and shares of fish under agreement**
- “(a) When fish caught under an agreement under section 10601 of this title are delivered to the owner of the vessel for processing and are sold, the vessel is liable in rem for the wages and shares of the proceeds of the seamen. An action under this section must be brought within six months after the sale of the fish.
- “(b)(1) In an action under this section, the owner shall produce an accounting of the sale and division of proceeds under the agreement. If the owner fails to produce the accounting, the vessel is liable for the highest value alleged for the shares.
- “(2) The owner may offset the value of general supplies provided for the voyage and other supplies provided the seaman bringing the action.
- “(c) This section does not affect a common law right of a seaman to bring an action to recover the seaman’s share of the fish or proceeds.
- 46 USC 10603. **“§ 10603. Seaman’s duty to notify employer regarding illness, disability, and injury**
- “(a) A seaman on a fishing vessel, fish processing vessel, or fish tender vessel shall notify the master or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or injury suffered by the seaman when in service to the vessel not later than seven days after the date on which the illness, disability, or injury arose.
- “(b) The Secretary shall prescribe regulations requiring that each fishing vessel, fish processing vessel, and fish tender vessel shall have on board a placard displayed in a prominent location accessible to the crew describing the seaman’s duty under subsection (a) of this section.”.
- Regulations.
- (b) CONFORMING AMENDMENT.—The table of contents at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 105 the following:
- “106. Fishing voyages.....10601.”.
- (c) REPEALS.—Sections 4391, 4392, 4393, and 4394 of the Revised Statutes of the United States (46 App. U.S.C. 531-534) are repealed.
- 46 USC 4501 note. **SEC. 7. TRANSITIONAL PROVISION.**
- Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—
- (1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and
- (2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.
- SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.**
- (a) IMMERSION SUITS.—

(1) **REQUIREMENT.**—Section 3102 of title 46, United States Code, is amended by striking “exposure” each place it appears and inserting in lieu thereof “immersion”.

(2) **SECTION HEADING.**—The section heading for section 3102 of that title is amended by striking “**Exposure**” and inserting in lieu thereof “**Immersion**”.

(3) **ANALYSIS.**—The chapter analysis for chapter 31 of that title is amended by striking “Exposure” and inserting in lieu thereof “Immersion”.

b) **OTHER UNINSPECTED VESSEL REQUIREMENTS.**—Section 4101 of title 46, United States Code, is amended by inserting “not subject to chapter 45 of this title” after “uninspected vessel”.

c) **MAJOR CONVERSION DEFINED.**—

(1) **DEFINITION.**—Section 2101 of title 46, United States Code, is amended by inserting after paragraph (14) the following:

“(14a) ‘major conversion’ means a conversion of a vessel that—

“(A) substantially changes the dimensions or carrying capacity of the vessel;

“(B) changes the type of the vessel;

“(C) substantially prolongs the life of the vessel; or

“(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.”.

(2) **REPEAL.**—Section 3701(2) of title 46, United States Code, is repealed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 1841:

HOUSE REPORTS: No. 100-729 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 27, 28, considered and passed House.

Aug. 11, considered and passed Senate.

Public Law 100-425
100th Congress

An Act

Sept. 9, 1988
[H.R. 4143]

To establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

25 USC 713f
note.
Contracts.

SECTION 1. ESTABLISHMENT OF RESERVATION.

(a) LANDS HELD IN TRUST; RESERVATION.—Subject to valid existing rights, including (but not limited to) all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of enactment of this Act, all right, title, and interest of the United States in and to the land described in subsection (c) is hereby held in trust for the use and benefit of the Confederated Tribes of the Grand Ronde Community of Oregon. Such land shall constitute the reservation of the Confederated Tribes of the Grand Ronde Community of Oregon and shall be subject to the Act entitled “An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes”, approved June 18, 1934 (25 U.S.C. 461 et seq.).

Forests and
forest products.

(b) TREATMENT OF RECEIPTS FROM RESERVATION LANDS.—Beginning on the date of enactment of this Act, all receipts from the lands described in subsection (c) shall accrue to the Confederated Tribes of the Grand Ronde Community of Oregon. This subsection shall not apply to receipts from timber on such lands which was removed before the date of enactment of this Act.

(c) LANDS DESCRIBED.—The lands referred to in subsection (a) are approximately 9,811.32 acres of land located in Oregon and more particularly described as:

Willamette Meridian, Oregon
Township Range

South	West	Section	Subdivision	Acres
4	8	36	SE¼SE¼	40.00
4	7	31	Lots 1, 2, NE¼E½, NW¼	320.89
5	7	6	All	634.02
5	7	7	All	638.99
5	7	18	Lots 1&2, NE¼E½, NW¼	320.07
5	8	1	SE¼	160.00
5	8	3	All	635.60
5	8	7	All	661.75
5	8	8	All	640.00
5	8	9	All	640.00
5	8	10	All	640.00
5	8	11	All	640.00
5	8	12	All	640.00
5	8	13	All	640.00
5	8	14	All	640.00
5	8	15	All	640.00

South	West	Section	Subdivision	Acres
3	6	24	NW ¼NW ¼	40.00
3	6	30	Lots 1-4, E ½W ½	344.96
4	6	6	Lots 1, 6, 7, S ½NE ¼, SE ¼NW ¼, E ½SW ¼, SE ¼	493.21
3	7	8	W ½NW ¼, SE ¼SE ¼	120.00
3	7	10	NE ¼NW ¼, S ½N ½, S ½	520.00
3	7	12	S ½NW ¼, SW ¼, W ½SE ¼	320.00
3	7	14	All	640.00
3	7	18	Lots 1, 2, N ½NE ¼	162.32
3	7	20	NW ¼NE ¼, S ½NE ¼	280.00
3	7	22	N ½N ½, SE ¼NE ¼, SW ¼NW ¼, SE ¼SW ¼, NE ¼SE ¼, S ½SE ¼	400.00
3	7	24	All	640.00
3	7	26	E ½	320.00
3	7	28	Lot 1, W ½NE ¼	123.35
3	7	30	E ½	320.00
3	7	32	NW ¼, NW ¼SE ¼	200.00
3	7	34	N ½N ½	160.00
3	8	10	NE ¼NE ¼, S ½NE ¼, S ½NW ¼	200.00
3	8	19	Lots 5, 9-11, W ½SE ¼	205.38
4	7	2	Lots 1, 2, SW ¼	241.73
4	7	4	Lots 1, 2, 3, SE ¼NE ¼, SE ¼SW ¼, E ½SE ¼, SW ¼SE ¼	321.77
4	7	6	Lot 4	41.22
4	7	8	SW ¼, NE ¼SE ¼	200.00
4	7	10	N ½	320.00
4	7	12	E ½E ½, NW ¼NE ¼, N ½NW ¼	280.00
4	7	17	S ½NE ¼	80.00
4	7	18	SE ¼	160.00
4	7	19	Lots 1, 2, E ½NW ¼	159.26
4	7	24	NE ¼SE ¼, S ½S ½	200.00
4	7	26	W ½NE ¼	80.00
4	7	30	SW ¼NE ¼	40.00
4	8	28	SE ¼SW ¼, SE ¼SE ¼	80.00
2	8	29	S ½SW ¼	80.00
2	8	31	Lots 5-16	411.78
2	8	32	Lots 1-11	323.42
2	8	34	W ½NW ¼, NW ¼SW ¼	120.00
3	8	2	SW ¼SE ¼	40.00
3	8	4	Lots 3, 4, S ½NW ¼, W ½SW ¼, S ½SE ¼	327.95
3	8	5	Lots 1, 2, SE ¼NE ¼, S ½	449.45
3	8	6	Lots 2-4, E ½SE ¼	189.37
3	8	7	Lots 1-4, SE ¼NE ¼	185.80
3	8	8	N ½, N ½S ½	480.00
Total				12,035.32

25 USC 713f
note.
Forests and
forest products.

SEC. 5. MEMORANDUM OF AGREEMENT.

The memorandum of agreement entered into between the Confederated Tribes of the Grand Ronde Community of Oregon and the Department of the Interior, dated March 10, 1988, relating to the disposition of timber resources on the reservation and the use of funds for economic development purposes, shall apply for the period of 20 years beginning on the date of enactment of this Act. This agreement is hereby incorporated in this Act by reference.

25 USC 713f
note.

SEC. 6. ECONOMIC DEVELOPMENT.

During the 20-year period beginning on the date of enactment of this Act, the Confederated Tribes of the Grand Ronde Community of Oregon shall establish and maintain a separate account dedicated to

conomic development purposes. The Tribes shall place into that
separate account an amount equal to 30 percent of the income from
all timber resources received into the Tribes' Federal trust funds
account. The Tribes may expend funds from that separate account
for economic development purposes.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 4143:

HOUSE REPORTS: No. 100-631 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-479 (Select Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 20, considered and passed House.

Aug. 11, considered and passed Senate.



Public Law 100-426
100th Congress

An Act

Sept. 9, 1988

[H.R. 4318]

To improve the administration of the personnel systems of the General Accounting Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

General
Accounting
Office Personnel
Amendments
Act of 1988.
31 USC 701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “General Accounting Office Personnel Amendments Act of 1988”.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

TITLE I—PERSONNEL APPEALS BOARD

SEC. 101. MEMBERS.

(a) 3 YEARS OF EXPERIENCE IN ADJUDICATION OR ARBITRATION NOT A PREREQUISITE.—Section 751(a) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(b) CANDIDATES RECOMMENDED NEED ONLY BE CONSIDERED.—Paragraph (1) of section 751(b) is amended to read as follows:

“(1) after considering any candidates who are recommended to the Comptroller General (at such time and in such manner as the Comptroller General requires) by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and”.

(c) TERMS OF OFFICE.—Section 751(c) is amended—

(1) by striking “The” in the first sentence and inserting “(1) Except as provided in paragraph (2), the”;

(2) by striking “3” each place it appears and inserting “5”; and

(3) by adding at the end the following:

“(2)(A) The term of a member serving on the date of the enactment of the General Accounting Office Personnel Amendments Act of 1988 shall be as follows:

“(i) Of the 2 members appointed in 1985, the term of 1 such member shall be 5 years, and the term of the other such member shall be 6 years.

“(ii) Of the 2 members appointed in 1986, the term of 1 such member shall be 6 years, and the term of the other such member shall be 7 years.

“(iii) The term of the member appointed in 1987 shall be 7 years.

B) Within 60 days after the date referred to in subparagraph (A), Comptroller General shall determine—

“(i) with respect to the members under subparagraph (A)(i), which will have a term of 5 years and which will have a term of 6 years; and

“(ii) with respect to the members under subparagraph (A)(ii), which will have a term of 6 years and which will have a term of 7 years.

C) A term established for a member under this paragraph shall measured—

“(i) from the date on which the member was originally appointed; or

“(ii) in the case of a member serving for the unexpired portion of a term, from the appointment date of the individual who was originally appointed to serve for such term.”.

102. PAY RATES.

D) GENERAL COUNSEL.—The second sentence of section 752(b)(2) is amended to read as follows: “The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS-16 of the General Schedule.”.

E) MEMBERS.—The first sentence of section 751(e) is amended to read as follows: “While carrying out a member’s duties (including travel), a member who is not an officer or employee of the United States Government is entitled to basic pay at a rate equal to the basic pay rate of basic pay payable for grade GS-18 of the General Schedule.”.

103. JUDICIAL REVIEW.

F) JURISDICTION OF COURTS.—Section 755 is amended by striking “the District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides.” and inserting “Federal Circuit.”.

G) ATTORNEY’S FEES IN DISCRIMINATION CASES.—Section 755 as amended by subsection (a), is further amended—

(1) by inserting “(a)” immediately before the beginning of the first sentence; and

(2) by adding at the end the following:

b) If an officer, employee, or applicant for employment is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 703(f) of this title, attorney’s fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.”.

H) APPLICABILITY.—Nothing in any of the amendments made by this section shall apply with respect to an appeal pending on the date of the enactment of this Act.

31 USC 755 note.

TITLE II—RETIREMENT AND ANNUITIES

201. ELIGIBILITY REQUIREMENTS FOR RETIREMENT.

Section 703(e)(1) is amended by striking “retires on becoming 70 years of age.” and inserting “may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be).”.

SEC. 202. DEFINITIONS.

(a) **DEPENDENT CHILD.**—Section 771(1) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “; or”, and by adding after subparagraph (B) the following:

“(C) between 18 and 22 years of age and is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purposes of this subchapter, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while such child is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim period between school years if the interim period is not more than 5 months and if such child shows to the satisfaction of the General Counsel of the General Accounting Office that such child has a bona fide intention of continuing in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim period.”.

(b) **SURVIVING SPOUSE.**—Section 771(2) is amended—

(1) in subparagraph (A), by striking “2 years” and inserting “1 year”; and

(2) in subparagraph (B), by inserting “before age 55” after “remarried”.

SEC. 203. ANNUITY OF THE COMPTROLLER GENERAL.

Section 772 is amended—

(1) in subsection (a), by striking “is retired for age under section 703(e)(1) of this title after serving at least 10 years” and inserting “retires under section 703(e)(1) of this title”; and

(2) in subsection (c), by striking “subchapter III of chapter 83 of title 5 remains subject to subchapter III” and inserting “subchapter III of chapter 83 or chapter 84 of title 5 remains subject to such subchapter III or such chapter 84 (as the case may be)”.

SEC. 204. ELECTION OF SURVIVOR BENEFITS.

Section 773 is amended—

(1) in subsection (b)(1), by inserting “5 percent of the” before “annuity”;

(2) in subsection (b)(2)(C), by striking “4.5” and inserting “3”; and

(3) by adding after subsection (c) the following:

“(d) The reduction in the Comptroller General’s annuity under subsection (b)(1) for the purpose of providing survivor benefits shall be terminated for each full month after the death of the spouse.”.

SEC. 205. SURVIVOR ANNUITIES.

Section 774 is amended—

(1) in subsection (b), by striking “5 years” each place it appears and inserting “18 months”;

(2) in subsection (c), by amending paragraphs (2) and (3) to read as follows:

“(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity computed under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

“(A) 10 percent of the average annual pay computed under subsection (d)(1) of this section; or

“(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children; or

“(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

“(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection, divided by the number of dependent children;

“(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section; or

“(C) 40 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children.”;

(3) in subsection (d)(1), by striking “1.25” and inserting “1.5”; and

(4) in subsection (e), by amending the first sentence to read as follows: “A surviving spouse’s annuity may not be more than 50 percent nor less than 25 percent of the average annual pay computed under subsection (d)(1) of this section.”.

206. PAYMENT OF SURVIVOR BENEFITS.

Section 776(b) is amended—

(1) in paragraph (1), by inserting “before age 55” after “remarries”; and

(2) in paragraph (2), by striking “age,” and inserting “age (unless the child is then a student as described in section 771(1)(C) of this title),”.

207. ANNUITY INCREASES.

Section 777 is amended to read as follows:

777. Annuity increases

(a) An annuity payable under this subchapter shall be increased the same time that, and by the same percent as the percentage by which, annuities are increased under section 8340(b) of title 5.

(b) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General. A surviving spouse’s annuity may be increased under this section without regard to any limitation set forth in section 774(e) of this title.”.

208. EFFECTIVE DATE.

The amendments made by this title shall be effective after the end of the 60-day period beginning on the date of enactment of this Act, except that an individual who, as of such date of enactment, is receiving an annuity under subchapter V of chapter 7 of title 31, United States Code, as a retired Comptroller General (and the spouse and any dependent children of such individual who may receive such individual) shall remain subject to the provisions of this subchapter, as in effect immediately before such date, if the retired Comptroller General makes an election under this section. An election under this section shall be ineffective unless it is made

31 USC 772 note.

in writing and received by the General Counsel of the General Accounting Office before the end of the 60-day period referred to in the preceding sentence.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. PREVAILING RATE EMPLOYEES.

Section 5349(a) of title 5, United States Code, is amended by inserting “the General Accounting Office,” after “the Government Printing Office,”.

SEC. 302. MAXIMUM NUMBER OF POSITIONS PAYABLE AT GS-18.

Section 732(c)(4) is amended—

- (1) by striking “119” and inserting “129”; and
- (2) by striking “the highest rate for GS-18,” and inserting “the rate of basic pay payable for grade GS-18 of the General Schedule,”.

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

Section 732(c)(3) is amended by striking “in section 733(a)(3)(B) of this title,” and inserting “under section 733(a)(3)(B) of this title or section 5349(a) of title 5,”.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 4318:

HOUSE REPORTS: No. 100-599, Pt. 1 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 100-463 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):

May 9, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-427
by Congress

An Act

to make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes.

Sept. 9, 1988
[H.R. 5174]

As enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BUREAU FUNDED SCHOOLS.

FACTORS.—Section 1121(k)(1) of the Education Amendments of 1978 (25 U.S.C. 2001(k)(1)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking out “has not previously received funds from the Bureau” and inserting in lieu thereof “is not a Bureau funded school”;

(B) by striking out “Bureau school board” and inserting in lieu thereof “school board of any Bureau funded school”;

(C) by striking out “has not previously been operated or funded by the Bureau” in subclause (I) and inserting in lieu thereof “is not a Bureau funded school”; and

(D) by striking out “any program currently funded by the Bureau” in subclause (II) and inserting in lieu thereof “a Bureau funded school”; and

(2) in subparagraph (B)(iii), by striking out “a Bureau operated program” and inserting in lieu thereof “a Bureau funded school”.

APPLICATION.—Section 1121(k)(6)(A) of the Education Amendments of 1978 (25 U.S.C. 2001(k)(6)(A)) is amended—

(1) by striking out “tribally controlled school” and inserting in lieu thereof “contract school”; and

(2) by striking out “the date of enactment of this Act” and inserting in lieu thereof “April 28, 1988.”

DEFINITIONS.—(1) Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(A) by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively; and

(B) by inserting after paragraph (9) the following new paragraph:

“(10) the term ‘Office’ means the Office of Indian Education Programs within the Bureau.”

(2) Section 1139(5) of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(A) by striking out “104(1)” and inserting in lieu thereof “104(a)”; and

(B) by striking out “450h(1)” and inserting in lieu thereof “450h(a)”.

(3) Section 1126(a) of the Education Amendments of 1978 (25 U.S.C. 2006(a)) is amended by striking out “(hereinafter referred to as the ‘Office’)”.

SEC. 2. ALLOTMENT FORMULA.

(a) **FISCAL YEAR 1990.**—Section 1128(c)(1)(B) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)(B)) is amended by striking out “an average daily attendance of” and inserting in lieu thereof “an enrollment of”.

(b) **TECHNICAL AMENDMENTS.**—(1) Clause (i) of section 1128(c)(4)(A) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(4)(A)) is amended by striking out “Amendments” and inserting in lieu thereof “Act”.

(2) Clause (iii) of section 5107(b)(1)(A) of the Indian Education Amendments of 1988 (20 U.S.C. 1411 note) is amended—

(A) by striking out “602(1)” and inserting in lieu thereof “602(a)(1)”; and

(B) by striking out “401(1)” and inserting in lieu thereof “1401(a)(1)”.

(c) **CONTRACT SCHOOLS TREATED AS POLITICAL SUBDIVISIONS.**—Section 1128(c)(5) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(5)) is amended by striking out “schools operated by Indian tribes” and inserting in lieu thereof “contract schools”.

SEC. 3. EMERGENCIES AND UNFORESEEN CONTINGENCIES.

Section 1128(d) of the Education Amendments of 1978 (25 U.S.C. 2008(d)) is amended to read as follows:

“(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.”

Reports.

SEC. 4. ADMINISTRATIVE COST GRANTS.

(a) **AMOUNT OF GRANT; RATE APPLICABLE ONLY TO EDUCATIONAL ACTIVITIES.**—Section 1128A(b)(1) of the Education Amendments of 1978 (25 U.S.C. 2008a(b)(1)) is amended—

(1) by striking out “to each of the direct cost education programs” and inserting in lieu thereof “to the aggregate of the Bureau elementary and secondary functions”; and

(2) by adding at the end thereof the following new sentence: “The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.”

(b) **SINGLE ADMINISTRATIVE COST ACCOUNT.**—Subsection (d)(1)(A) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended by inserting “tribe or” before “contract school” each place it appears.

(c) **STUDIES.**—Subsection (f) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior."

GRANT SCHOOLS.—Section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended by adding at the end of the following new subsection:

The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988."

SCHOOL BOARD TRAINING.

EFFECTIVE DATE.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new subparagraph:

"(D) This paragraph shall take effect on October 1, 1989."

SET-ASIDE AMOUNT.—Clause (ii) of section 1128(c)(3)(C) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)(C)) is amended by striking out "2 percent" and inserting in lieu thereof "1 percent".

6. COORDINATED PROGRAMS.

Section 1129(f)(1) of the Education Amendments of 1978 (25 U.S.C. 2008(f)(1)) is amended—

(1) by striking out "a school" and inserting in lieu thereof "a Bureau school";

(2) by striking out "whose children are served by a program operated by the Bureau";

(3) by striking out "education programs operated by the Bureau" and inserting in lieu thereof "the school"; and

(4) in subparagraph (A), by striking out "if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited" and inserting in lieu thereof "unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited".

7. CONSULTATION.

Section 1130(b)(2) of the Education Amendments of 1978 (25 U.S.C. 2008(b)(2)) is amended by striking out "from information educed or presented during the discussions" and substituting in lieu thereof "information educed or presented by the interested parties during one or more of the discussions and deliberations."

8. PERSONNEL STUDIES.

Section 5113 of the Indian Education Amendments of 1988 (25 U.S.C. 2011 note) is amended—

(1) in subsection (a)(2), by striking out "schools operated within the United States" and inserting in lieu thereof "elementary and secondary schools operated"; and

(2) in subsection (e), by striking out "11" and inserting in lieu thereof "XI".

SEC. 9. REGULAR COMPENSATION OF BUREAU EDUCATORS: NON-VOLUNTARY FURLOUGHS.

(a) **COMPENSATION.**—Section 1131(h)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) in subparagraph (B), by striking out “the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988” and inserting in lieu thereof “October 28, 1988”;

(2) in subparagraph (C), by striking out “the close of the 6-month period described in subparagraph (B)” and inserting in lieu thereof “October 28, 1988”;

(3) in subparagraph (C)(i), by striking out “the date of enactment of the Indian Education Amendments of 1988” and inserting in lieu thereof “April 28, 1988”;

(4) in subparagraph (E)(i), by striking out “any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day” and inserting in lieu thereof “an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o)”;

(5) in subparagraph (E)(iii), by inserting before the period “, except that the individual must use leave accrued during a contract period by the end of that contract period”.

(b) **APPLICATION.**—Section 1131(o) of the Education Amendments of 1978 (25 U.S.C. 2011(o)) is amended—

(1) in paragraph (1)—

(A) by striking out “This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position” and inserting in lieu thereof “Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2))”; and

(B) by striking out “any individual employed immediately before the effective date of subsection (a)(2)” and inserting in lieu thereof “an individual employed on October 31, 1979”; and

(2) in paragraph (2)—

(A) by striking out “position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act” and inserting in lieu thereof “position on October 31, 1979, may, not later than November 1, 1983”; and

(B) by inserting “of subsections (a) through (n)” after “provisions”.

(c) **FURLOUGHS.**—Section 1131(p)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(p)(1)) is amended—

(1) by striking out “No educator whose basic compensation is paid from funds allocated under section 1128 may be” and inserting in lieu thereof “An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be”;

(2) in subparagraph (A), by striking out “a shortage of funds” and inserting in lieu thereof “an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b) of this Act”; and

(3) by inserting before the period at the end of subparagraph (B) “, except that the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), may continue one or more educators in pay status if (i) they are needed to operate summer programs, attend summer training sessions, or participate in special activities including (but not limited to) curriculum development committees, and (ii) they are selected based upon their qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply”.

Discrimination,
prohibition.

(d) **FINANCIAL PLANS.**—Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding after the first sentence of subsection (b) the following new sentence: “The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time they are submitted to the local school board.”.

SEC. 10. GRANTS.

Contracts.

(a) **IN GENERAL.**—Section 5204(a)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(1)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

“(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing as contract schools;

“(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

“(C) elect to assume operation of Bureau schools with assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.”.

(b) **RETROCESSION.**—Section 5204(f) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(f)) is amended—

(1) by adding the following at the end thereof:

“The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau school or as a contract school under title XI of the Education Amendments of 1978. Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

“(1) with assistance under this part, or

“(2) upon assumption of operation of the program under this part if it was a Bureau funded school under title XI of the

Education Amendments of 1978 before receiving assistance under this part.”;

(2) by striking out “tribe” each place it appears in the first sentence and inserting in lieu thereof “tribal governing body”; and

(3) by striking out “Indian” in the first sentence.

(c) COMPOSITION.—Section 5205(b)(3)(A)(i) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(3)(A)(i)) is amended by inserting “chapter 1 of” before “title I”.

SEC. 11. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 5206(a)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(a)(1)) are amended to read as follows:

Contracts.

“(A) was, on April 28, 1988, a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part,

“(B) was a Bureau school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b).”.

(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS.—Section 5206(b)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(b)(1)) is amended by striking out “Any school that was operated as a Bureau school on the date of enactment of this Act” and inserting in lieu thereof “A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on April 28, 1988.”.

(c) SCHOOLS WHICH ARE NOT BUREAU FUNDED.—Section 5206(c) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(c)) is amended—

(1) by amending the subsection heading to read “ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—”; and

(2) in paragraph (1), by striking out “A school for which the Bureau has not provided funds” and inserting in lieu thereof “A school which is not a Bureau funded school under title XI of the Education Amendments of 1978”.

(d) APPLICATIONS AND REPORTS.—Section 5206(d)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(d)(1)) is amended by striking out “the Department of Education” and inserting in lieu thereof “the Bureau of Indian Affairs”.

(e) RECORD OF HEARINGS.—Section 5206(f)(1)(C) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(f)(1)(C)) is amended by inserting “on the record” after “hearing”.

SEC. 12. DURATION OF ELIGIBILITY DETERMINATION.

(a) ROLE OF SECRETARY OF EDUCATION.—Subclause (I) of section 5207(c)(1)(A)(ii) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2506(c)(1)(A)(ii)) is amended by striking out “as determined by” and inserting in lieu thereof “as recognized by”.

(b) REVOCATION.—Subclause (V) of section 5207(c)(1)(A)(ii) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2506(c)(1)(A)(ii)) is amended—

(1) by striking out the last sentence and inserting in lieu thereof the following: “If the Secretary and a grantee other than the tribal governing body fail to agree on such an evalua-

er, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grantee which is the tribal governing body fail to agree on such an evaluator, this subclause shall not apply.”; and

(2) by inserting “(or revisions of such standards agreed to by the Secretary and the grantee)” after “Education Assistance Act”.

APPLICATION.—Section 5207 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) is amended by adding at the end thereof the following new subsection: 25 USC 2506.

APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

“(1) subsection (b) of this section shall apply; and

“(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.”.

D. PAYMENTS OF GRANTS.

PAYMENT.—Paragraph (2) of section 5208(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended by striking out “under this part” and inserting in lieu thereof “from the funds”.

RESTRICTIONS.—Section 5208(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended by adding the following new paragraph at the end thereof:

“(3) Paragraphs (1) and (2) of this subsection shall be subject to any restriction on amounts of payments under this part that may be imposed by a continuing resolution or other Act appropriating the funds involved.”.

E. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508) is amended—

(1) in subsection (b) by adding at the end thereof the following:

“(3) In any case in which the 60-day period referred to in paragraph (2)(B) is less than 60 days before the beginning of the succeeding fiscal year, such election shall not take effect until the fiscal year after the fiscal year succeeding the election. For the fiscal year 1989, the Secretary may waive this paragraph for elections received prior to September 30, 1988.”; and

(2) by adding the following new subsections at the end thereof:

TRANSFERS AND CARRYOVERS.—

“(1) A tribe or tribal organization assuming the operation of a bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(2) A tribe or tribal organization assuming the operation of a contract school with assistance under this part shall be entitled to the transfer or use of the buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian

Contracts.

Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(3) Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather than to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

Grants.
Contracts.

“(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2) of this Act, any dispute regarding the amount of a grant under section 5205 (and the amount of any funds referred to in that section), any payments to be made under section 5208 of this Act, and any dispute involving the amount of, or payment of, the administrative grant under section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) shall be handled under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-658; 25 U.S.C. 450 et seq.).”

SEC. 15. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

Section 5312 of the Indian Education Act of 1988 (25 U.S.C. 2602) is amended—

(1) by amending subsection (b)(1) to read as follows:

“(1) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of Indian children who were enrolled in the schools of each local educational agency that applies for a grant, and for whom such agency provided free public education, during such fiscal year.”;

(2) in subsection (b)(2)(A), by striking all after “the product of—” and inserting in lieu thereof the following:

“(i) the number of Indian children determined under paragraph (1), multiplied by

“(ii) the average per pupil expenditure per local educational agency, as determined under subparagraph (C), bears to the sum of such products for all such local educational agencies.”;

(3) in the first sentence of subsection (b)(2)(B)—

(A) by striking out “eligible”; and

(B) by inserting “determined under paragraph (1)” after “children”;

(4) in subsection (b)(3), by striking out “5315(c)(2)” and inserting in lieu thereof “5315(c)”; and

(5) in subsection (c)(1), by striking out “in accordance with the provisions of this subpart” and inserting in lieu thereof “, on a competitive basis,”.

SEC. 16. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

Section 5314 of the Indian Education Act of 1988 (25 U.S.C. 2604) is amended—

(1) in subsection (a)—

(A) by striking out “provided”; and

(B) by striking out “5312(b)” and inserting in lieu thereof “5312(c)”;

(2) in subsection (b)(3), by inserting “,” after “procedures” the first place it appears;

(3) in subsection (d)(1), by striking out “include a form” and inserting in lieu thereof “be supported by a form, maintained in the files of the applicant,”;

(4) in subsection (d)(2)(A)(ii), by striking out “grandparents,” and inserting in lieu thereof “grandparents”;

(5) in subsection (d)(2)(B), by striking out “applicant” and inserting in lieu thereof “child”;

(6) in subparagraphs (C) and (D) of subsection (d)(2), by striking out “or legal guardian” each place it appears;

(7) in subsection (d)(3)—

(A) by inserting “other” before “information”; and

(B) by inserting after the first sentence the following:
 “In order for a child to be counted in computing the local educational agency’s grant award, the eligibility form for the child must contain at least—

“(A) the child’s name;

“(B) the name of the tribe, band, or other organized group of Indians; and

“(C) the parent’s dated signature.”; and

(8) in subsection (e)(1)—

(A) by striking out “education” in subparagraph (A) and inserting in lieu thereof “educational”;

(B) by striking out “provide” in subparagraph (B) and inserting in lieu thereof “provided”; and

(C) by striking out “education” in subparagraph (C) and inserting in lieu thereof “educational”.

17. PAYMENTS.

Section 5315(c) of the Indian Education Act of 1988 (25 U.S.C. (c)) is amended to read as follows:

(c) REDUCTION FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

“(1) The Secretary shall not pay to any local educational agency its full allotment under section 5312 for any fiscal year unless the State educational agency determines that the combined fiscal effort of that local agency and the State with respect to the provision of free public education by that local agency for the preceding fiscal year, computed on either a per student or aggregate expenditure basis, was at least 90 percent of such combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

“(2) If the Secretary determines for any fiscal year that a local educational agency failed to maintain its expenditures at the 90 percent level required by paragraph (1), the Secretary shall—

“(A) reduce the allocation of funds to that agency in the exact proportion of that agency’s failure to maintain its expenditures at that level, and

“(B) not use the reduced amount of the agency’s expenditures for the preceding year to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

“(3) The Secretary may waive the requirements of this subsection for one fiscal year only if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and

State and local
governments.

unforeseen decline in the agency's financial resources. The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of a waiver."

SEC. 18. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) **TRAINING FOR THOSE SERVING INDIAN STUDENTS.**—Section 5321(d) of the Indian Education Act of 1988 (25 U.S.C. 2621(d)) is amended by adding at the end thereof the following:

Grants.

"(4) In making grants under this subsection, the Secretary shall consider prior performance and may not limit eligibility on the basis of the number of previous grants or the length of time for which the applicant has received grants."

(b) **TECHNICAL AMENDMENTS.**—Subparagraphs (B) and (C) of section 5321(e)(1) of the Indian Education Act of 1988 (25 U.S.C. 2621(e)(1)) are each amended by striking out "upon request" and inserting in lieu thereof "upon request,".

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 5321(g)(1) of the Indian Education Act of 1988 (25 U.S.C. 2621(g)(1)) is amended by inserting "other than subsection (e)(1)" after "this section".

SEC. 19. FELLOWSHIPS FOR INDIAN STUDENTS.

(a) **TECHNICAL CORRECTION.**—Section 5323(a) of the Indian Education Act of 1988 (25 U.S.C. 2623(a)) is amended by striking out "post baccalaureate" and inserting in lieu thereof "postbaccalaureate".

(b) **TABLE OF CONTENTS.**—The item relating to section 5323 in the table of contents contained in section 1(b) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 139) is amended to read as follows:

"Sec. 5323. Fellowships for Indian Students."

SEC. 20. GIFTED AND TALENTED.

(a) **DEMONSTRATION PROJECTS.**—Section 5324(b)(3)(C) of the Indian Education Act of 1988 (25 U.S.C. 2624(b)(3)(C)) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

(b) **ADDITIONAL GRANTS.**—Section 5324(c) of the Indian Education Act of 1988 (25 U.S.C. 2624(c)) is amended—

(1) in paragraph (4)(B), by striking out "1128(c)(1)(A)(ii)" and inserting in lieu thereof "1128(c)(4)(A)(i)"; and

(2) in paragraph (7)(A), by striking out "evaluator" and inserting in lieu thereof "demonstration project recipients under subsection (b)".

SEC. 21. OFFICE OF INDIAN EDUCATION.

Section 5341(b)(2)(D) of the Indian Education Act of 1988 (25 U.S.C. 2641(b)(2)(D)) is amended by striking out "Alaskan" and inserting in lieu thereof "Alaska".

SEC. 22. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

Section 5342(a)(1)(A) of the Indian Education Act of 1988 (25 U.S.C. 2642(a)(1)(A)) is amended by striking out "Indians" and inserting in lieu thereof "Indians,".

SEC. 23. DEFINITIONS.

Section 5351 of the Indian Education Act of 1988 (25 U.S.C. 2651) is amended—

- (1) by amending paragraph (4)(A) to read as follows:

"(A) a member (as defined by an Indian tribe, band, or other organized group) of such Indian tribe, band, or other organized group of Indians, including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,";

- (2) in paragraph (5)(A)—

(A) by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (B), the";

(B) by striking out "section 198(a)(10)" and inserting in lieu thereof "section 1471(12)"; and

(C) by striking out "(20 U.S.C. 2854(a)(10))" and inserting in lieu thereof "(20 U.S.C. 2891(12))"; and

- (3) in paragraph 5(B)—

(A) by striking out "The term" and all that follows through "includes—" and inserting in lieu thereof the following: "For purposes of the formula grant of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)), the term 'local educational agency' includes—"; and

(B) by striking out "education" in clause (ii) and inserting in lieu thereof "educational".

SEC. 24. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

Section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808) is amended by adding at the end thereof the following:

"(c) Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98-192."

SEC. 25. USE OF BUREAU FACILITIES.

(a) **IN GENERAL.**—Section 5405(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 17(a)) is amended to read as follows:

"(a) **IN GENERAL.**—The Secretary of the Interior may permit tribal governments and organizations and student organizations to use Bureau of Indian Affairs equipment, land, buildings, and other structures if such use does not interfere with the purpose for which they are administered by the Bureau and when such use benefits Indians or Federal or federally funded programs. The Secretary may charge the user for the cost of the utilities and other expenses incurred for the use. The amounts collected shall be credited to the appropriation or fund from which the expenses are paid and shall be available until the end of the fiscal year following the fiscal year in which collected. The Secretary's decision to not permit a use under this section is final and shall not be subject to judicial review."

(b) Section 5405 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of

Public lands.
Public buildings
and grounds.

Utilities.

1988 (25 U.S.C. 17) is further amended by adding at the end thereof the following new subsection:

"(c) The payment of any fee, or agreement to pay costs, to the Secretary shall not in any way or to any extent limit the right of the United States to rely upon sovereign immunity or any State or Federal statute limiting liability or damages from injuries sustained in connection with use under this section."

SEC. 26. WHITE HOUSE CONFERENCE ON INDIAN EDUCATION.

(a) **COMPOSITION.**—Section 5503(a)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by inserting "(including members of local school boards of schools funded by the Bureau of Indian Affairs)" after "Indian educational institutions".

(b) **ADVISORY COMMITTEE.**—Section 5506(d) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by striking out "traveltime" and inserting in lieu thereof "travel time".

(c) **GIFTS.**—Section 5507(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by striking out "Force," and inserting in lieu thereof "Force".

SEC. 27. REPEAL OF ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

Section 6210 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2016a) is repealed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 5174:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 9, considered and passed House and Senate.



Public Law 100-428
100th Congress

An Act

To authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

Sept. 9, 1988

[S. 2641]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Temporary Emergency Wildfire Suppression Act”.

Temporary
Emergency
Wildfire
Suppression Act.
42 USC 1856
note.
42 USC 1856m.

SEC. 2. DEFINITIONS.

As used in this Act—

- (1) the term “fire organization” means any governmental, public, or private entity having wildfire protection resources;
- (2) the term “wildfire protection resources” means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and
- (3) the term “wildfire” means any forest or range fire.

SEC. 3. IMPLEMENTATION.

42 USC 1856n.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

Claims.

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire

Canada.

protection resources to the Government of the United States under—

(1) the memorandum entitled “Memorandum of Understanding Between the United States Department of Agriculture and Environment Canada on Cooperation in the Field of Forestry-Related Programs” dated June 25, 1982; and

(2) the arrangement entitled “Arrangement in the Form of an Exchange of Notes Between the Government of Canada and the Government of the United States of America” dated May 4, 1982.

(d) Any service performed by any employee of the United States under an agreement or otherwise under this Act shall constitute service rendered in the line of duty in such employment. The performance of such service by any other individual shall not make such individual an employee of the United States.

42 USC 1856o.

SEC. 4. FUNDS.

Funds available to the Secretary of Agriculture or the Secretary of the Interior for wildfire protection resources in connection with activities under the jurisdiction of such Secretary may be used to carry out activities authorized under agreements or otherwise under this Act, or for reimbursements authorized under section 3(c): *Provided*, That no such funds may be expended for wildfire protection resources or personnel provided by a foreign fire organization unless the Secretary determines that no wildfire protection resources or personnel within the United States are reasonably available to provide wildfire protection.

42 USC 1856p.

SEC. 5. TERMINATION DATE.

The authority to enter into agreements under section 3(a), to furnish or accept emergency wildfire protection resources under section 3(b), or to incur obligations for reimbursement under section 3(c), shall terminate on December 31, 1988.

Approved September 9, 1988.

LEGISLATIVE HISTORY—S. 2641:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 8, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 9, Presidential statement.

Public Law 100-429
100th Congress

Joint Resolution

To provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

Sept. 9, 1988
[S.J. Res. 374]

Whereas the labor dispute between the Chicago and North Western Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union threatens to interrupt essential transportation services of the United States;

Whereas it is essential to the national interest, particularly in health and defense, that essential transportation services be maintained;

Whereas Congress finds that emergency measures are essential to maintaining the security and continuity of transportation services provided by the Chicago and North Western Transportation Company;

Whereas the President, by Executive Order 12636 of April 20, 1988, and pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created Presidential Emergency Board 213 to investigate the dispute and report findings;

Whereas the recommendations of the Emergency Board 213 issued on July 1, 1988, have not resulted in a settlement of the dispute;

Whereas all the procedures provided under the Railway Labor Act for resolving the dispute have been exhausted and have not resulted in settlement of the dispute;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroads.

SECTION 1. CONDITIONS FOR RESOLVING DISPUTE.

The following conditions shall apply to the dispute referred to in Executive Order 12636 of April 20, 1988, between Chicago and North Western Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union:

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on August 4, 1988, except as provided in paragraphs (2) and (3).

(2) The report and recommendations of the Emergency Board 213 shall be binding on the parties upon the enactment of this joint resolution and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement to any

Contracts.

terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) **UNRESOLVED ISSUES.**—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement under section 1(a)(2) after 10 days after the date of the enactment of this joint resolution, on request of either party the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) **APPOINTMENT OF ARBITRATION BOARD.**—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) **CONDUCT OF ARBITRATION BOARD.**—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railway Labor Act (45 U.S.C. 157).

(d) **ENFORCEMENT AND REVIEW OF ARBITRATION AWARD.**—The arbitration award shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

(e) **JURISDICTION FOR JUDICIAL REVIEW OF ARBITRATION AWARD.**—The United States District Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

Courts, U.S.
Illinois.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—S.J. Res. 374:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 8, considered and passed Senate.
Sept. 9, considered and passed House.

Public Law 100-430
100th Congress

An Act

To amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

Sept. 13, 1988
[H.R. 1158]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

Fair Housing
Amendments
Act of 1988.
Discrimination,
prohibition.
42 USC 3601
note.
Civil Rights Act
of 1968.
42 USC 3601
note.

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'."

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

"SEC. 800. This title may be cited as the 'Fair Housing Act'."

Fair Housing
Act.
42 USC 3601
note.

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

(a) MODIFICATION OF DEFINITION OF DISCRIMINATORY HOUSING PRACTICE.—Section 802(f) is amended by striking out "or 806" and inserting in lieu thereof "806, or 818".

42 USC 3602.

(b) ADDITIONAL DEFINITIONS.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988)."

Handicapped
persons.
42 USC 3604.

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) **ADDITIONAL DISCRIMINATORY HOUSING PRACTICES.**—Section 804 is amended by adding at the end the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter,

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

"(A) that person; or

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

“(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

“(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

“(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

“(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

“(iii) all premises within such dwellings contain the following features of adaptive design:

“(I) an accessible route into and through the dwelling;

“(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

“(III) reinforcements in bathroom walls to allow later installation of grab bars; and

“(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

“(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as ‘ANSI A117.1’) suffices to satisfy the requirements of paragraph (3)(C)(iii).

“(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

State and local governments.

“(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

“(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

“(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

“(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to

State and local governments.

receive and process complaints or otherwise engage in enforcement activities under this title.

“(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

“(7) As used in this subsection, the term ‘covered multifamily dwellings’ means—

“(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

“(B) ground floor units in other buildings consisting of 4 or more units.

State and local governments.

“(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

Safety.

“(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.”.

42 USC 3606, 3604.

(b) **ADDITIONAL PROTECTED CLASSES.**—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting “handicap, familial status,” immediately after “sex,” each place it appears.

(2) Subsections (a) and (b) of section 804 are each amended by inserting “familial status,” after “sex,” each place it appears.

42 USC 3602 note.

(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term “individual with handicaps” nor the term “handicap” shall apply to an individual solely because that individual is a transvestite.

(c) **DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.**—Section 805 is amended to read as follows:

**“DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED
TRANSACTIONS**

42 USC 3605.

“SEC. 805. (a) **IN GENERAL.**—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

“(b) **DEFINITION.**—As used in this section, the term ‘residential real estate-related transaction’ means any of the following:

“(1) The making or purchasing of loans or providing other financial assistance—

“(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

“(B) secured by residential real estate.

“(2) The selling, brokering, or appraising of residential real property.

“(c) **APPRAISAL EXEMPTION.**—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.”.

42 USC 3607.

(d) **ADDITIONAL EXEMPTION.**—Section 807 is amended—

(1) by inserting “(a)” after “SEC. 807.”; and

(2) by adding at the end of such section the following:

“(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

“(2) As used in this section, ‘housing for older persons’ means housing—

“(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

“(B) intended for, and solely occupied by, persons 62 years of age or older; or

“(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors:

Regulations.
Aged persons.

“(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

“(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

“(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

“(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

Aged persons.

“(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): *Provided*, That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

“(B) unoccupied units: *Provided*, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

“(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).”

Drugs and drug abuse.

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: “AND OTHER PROHIBITED PRACTICES”.

42 USC 3604.

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting “(including any Federal agency having regulatory or supervisory authority over financial institutions)” after “urban development”.

42 USC 3608.

42 USC 3608.

Reports.

(b) **ADDITIONAL FUNCTIONS OF SECRETARY.**—(1) Section 808(e) is amended—

(A) in paragraph (2), by inserting before the semicolon at the end, the following: “, including an annual report to the Congress—

“(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

“(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

“(i) investigations are not completed as required by section 810(a)(1)(B);

“(ii) determinations are not made within the time specified in section 810(g); and

“(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g)”;

(B) by striking out “; and” at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”; and

(D) by adding at the end, the following:

“(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries of potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).”.

(2) Section 808 is amended by adding at the end the following:

“(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

“(1) title VI of the Civil Rights Act of 1964;

“(2) title VIII of the Civil Rights Act of 1968;

“(3) section 504 of the Rehabilitation Act of 1973;

“(4) the Age Discrimination Act of 1975;

“(5) the Equal Credit Opportunity Act;

“(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

“(7) section 8(a) of the Small Business Act;

“(8) section 527 of the National Housing Act;

“(9) section 109 of the Housing and Community Development Act of 1974;

“(10) section 3 of the Housing and Urban Development Act of 1968;

“(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

“(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.”.

Reports.
Public
information.
Records.

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended—

(1) by redesignating sections 815 through 819 as sections 816 through 820, respectively; and 42 USC 3615-3619.

(2) by striking out sections 810 through 813 and inserting in lieu thereof the following: 42 USC 3610-3613.

“ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

“SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint. 42 USC 3610.

“(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

“(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

“(B) Upon the filing of such a complaint—

“(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

“(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

“(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

“(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

“(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

“(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

“(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

“(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

Contracts.

“(b) **INVESTIGATIVE REPORT AND CONCILIATION.**—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

“(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

“(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

Public information.

“(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

Reports.

“(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

“(i) the names and dates of contacts with witnesses;

“(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

“(iii) a summary description of other pertinent records;

“(iv) a summary of witness statements; and

“(v) answers to interrogatories.

“(B) A final report under this paragraph may be amended if additional evidence is later discovered.

“(c) **FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.**—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

“(d) **PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OF INFORMATION.**—(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

“(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

“(e) **PROMPT JUDICIAL ACTION.**—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

“(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any

respondent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

“(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

“(A) within the jurisdiction of a State or local public agency; and

“(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

“(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

“(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

“(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

“(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

“(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

“(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

“(ii) the procedures followed by such agency;

“(iii) the remedies available to such agency; and

“(iv) the availability of judicial review of such agency's action; are substantially equivalent to those created by and under this title.

“(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

“(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

“(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

“(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with

respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

“(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

“(B) Such charge—

“(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

“(ii) shall be based on the final investigative report; and

“(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

“(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

“(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

“(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

“(h) SERVICE OF COPIES OF CHARGE.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

“(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

“(2) on each aggrieved person on whose behalf the complaint was filed.

“SUBPOENAS; GIVING OF EVIDENCE

“SEC. 811. (a) IN GENERAL.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

Public
information.

“(b) **WITNESS FEES.**—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

“(c) **CRIMINAL PENALTIES.**—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

Records.

“(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

“(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

“(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

“(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

“**ENFORCEMENT BY SECRETARY**

“**SEC. 812. (a) ELECTION OF JUDICIAL DETERMINATION.**—When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates.

42 USC 3612.

“(b) **ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.**—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

“(c) **RIGHTS OF PARTIES.**—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

“(d) **EXPEDITED DISCOVERY AND HEARING.**—(1) Discovery in administrative proceedings under this section shall be conducted as

expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

“(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

“(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

“(e) **RESOLUTION OF CHARGE.**—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

“(f) **EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.**—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

“(g) **HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.**—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

“(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

“(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

“(A) in an amount not exceeding \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

“(B) in an amount not exceeding \$25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

“(C) in an amount not exceeding \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed

without regard to the period of time within which any subsequent discriminatory housing practice occurred.

“(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title.

Contracts.

“(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

“(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

“(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

“(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

“(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal.

Public information.

“(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

“(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

“(i) JUDICIAL REVIEW.—(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

“(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

“(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

“(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge.

Records.

“(k) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (i) or (j), the court may—

“(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

“(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

“(C) enforce such order to the extent that such order is affirmed or modified.

“(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

“(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

“(l) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge’s order is entered, the administrative law judge’s findings of fact and order shall be conclusive in connection with any petition for enforcement—

“(1) which is filed by the Secretary under subsection (j) after the end of such day; or

“(2) under subsection (m).

“(m) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the expiration of 60 days after the date the administrative law judge’s order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

“(n) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

“(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

“(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

“(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought

for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

“(p) **ATTORNEY’S FEES.**—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

“**ENFORCEMENT BY PRIVATE PERSONS**

“**SEC. 813. (a) CIVIL ACTION.**—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach.

Contracts.
42 USC 3613.

“(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

“(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

“(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

“(b) **APPOINTMENT OF ATTORNEY BY COURT.**—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

“(1) appoint an attorney for such person; or

“(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

“(c) **RELIEF WHICH MAY BE GRANTED.**—(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging

in such practice or ordering such affirmative action as may be appropriate).

"(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

Contracts.

"(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"ENFORCEMENT BY THE ATTORNEY GENERAL

Courts, U.S.
42 USC 3614.

"SEC. 814. (a) PATTERN OR PRACTICE CASES.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

Contracts.

"(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

"(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(d) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (a) AND (b).—(1) In a civil action under subsection (a) or (b), the court—

"(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order

against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

“(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

“(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

“(i) in an amount not exceeding \$50,000, for a first violation; and

“(ii) in an amount not exceeding \$100,000, for any subsequent violation.

) In a civil action under this section, the court, in its discretion, allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

) **INTERVENTION IN CIVIL ACTIONS.**—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

“RULES TO IMPLEMENT TITLE

SEC. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.”. 42 USC 3614a.
Public information.

9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting “, handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act),” after “sex” each place it appears. 42 USC 3631.

10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof. 42 USC 3617.

11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

JURISDICTION.—Section 2342 of title 28, United States Code, is amended—

- (1) by striking out “and” at the end of paragraph (4);
- (2) by striking out the period at the end of paragraph (5) and inserting “; and” in lieu thereof; and
- (3) by inserting after paragraph (5) but before the matter beginning “Jurisdiction is invoked” the following:

“(6) all final orders under section 812 of the Fair Housing Act.”.

DEFINITION.—Section 2341(3) of title 28, United States Code, is amended—

- (1) by striking out “and” at the end of subparagraph (B);
- (2) by striking out the period at the end of subparagraph (C) and inserting “; and” in lieu thereof; and
- (3) by adding at the end the following:

“(D) the Secretary, when the order is under section 812 of the Fair Housing Act.”.

42 USC 3601
note.

SEC. 12. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

SEC. 13. EFFECTIVE DATE AND INITIAL RULEMAKING.

42 USC 3601
note.

(a) **EFFECTIVE DATE.**—This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) **INITIAL RULEMAKING.**—In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

Public
information.

42 USC 3601
note.

SEC. 14. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 15. MODIFICATION OF RENTAL HOUSING BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended by striking out the period at the end of subsection (f)(3)(A) and inserting in lieu thereof “except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.”.

Approved September 13, 1988.

LEGISLATIVE HISTORY—H.R. 1158:

HOUSE REPORTS: No. 100-711 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):

June 22, 23, 29, considered and passed House.

Aug. 1, 2, considered and passed Senate, amended.

Aug. 8, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 13, Presidential remarks.

Public Law 100-431
100th Congress

Joint Resolution

Designating September 16, 1988, as "National POW/MIA Recognition Day".

Sept. 15, 1988
[H.J. Res. 453]

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in those wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;
Whereas many Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 16, 1988, is designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

Approved September 15, 1988.

LEGISLATIVE HISTORY—H.J. Res. 453 (S.J. Res. 330):**CONGRESSIONAL RECORD**, Vol. 134 (1988):

July 13, considered and passed House.

July 26, S.J. Res. 330 considered and passed Senate.

Sept. 8, H.J. Res. 453 considered and passed Senate.

Public Law 100-432
100th Congress

Joint Resolution

Sept. 15, 1988
[S.J. Res. 295]

To provide for the designation of September 15, 1988, as "National D.A.R.E. Day".

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester long program which teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs or alcohol and teaches the skills to make positive decisions and resist pressure to participate in negative behaviors;

Whereas more than 495 communities in 34 States now teach the D.A.R.E. program in their local schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 1.5 million students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience with ruined lives and crimes caused by substance abuse;

Whereas each police officer teaching the D.A.R.E. program completes an 80-hour training course including instruction in teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decision making skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, and it has also contributed to improved study habits and grades, decreased vandalism and gang activity, and has generated greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1988, is designated as “National D.A.R.E. Day”, and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved September 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 295:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 7, considered and passed House.

Public Law 100-433
100th Congress

An Act

Sept. 16, 1988
[H.R. 1939]

To provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Constitution Heritage Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) 1987 was the bicentennial of the signing of the United States Constitution;

(2) commemoration of the Constitution's bicentennial included various events conducted by the Federal Commission on the Bicentennial of the United States Constitution, and State and local bicentennial commissions;

(3) bicentennial activities included important educational and instructional programs to heighten public awareness of the Constitution and the democratic process;

(4) educational programs for the Constitution should continue after the bicentennial to document its profound impact on the political, economic and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution; and

(5) units of the National Park System preserve and interpret key historic sites that document the history of the origins, subsequent development, and effects of the United States Constitution on this Nation.

(b) PURPOSES.—It is therefore the policy of the Congress to provide each of the following:

(1) the necessary resources to develop a national resource center to undertake, on an ongoing basis, educational programs on the Constitution;

(2) exhibits of, and an archives for, programs on or related to the recent bicentennial of the United States Constitution; and

(3) interpretation of the United States Constitution at those units of the National Park System particularly relevant to its history.

SEC. 3. ESTABLISHMENT OF THE CENTER.

(a) ESTABLISHMENT BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall establish The National Constitution Center (hereafter in this Act referred to as the "Center") within or in close proximity to the Independence National Historical Park. The Center shall disseminate information about the United States Constitution on a non-

Constitution
Heritage Act
of 1988.
Conservation.
Historic
preservation.
16 USC 407aa
note.
16 USC 407aa.

Education.

16 USC 407bb.

Public
information.

an basis in order to increase the awareness and understanding of the Constitution among the American people.

FUNCTIONS OF THE CENTER.—The functions of the Center shall be—

- (1) serving as a center of exhibits and related materials on the history and contemporary significance of the Constitution;
- (2) directing a national program of public education on the Constitution; issuing traveling exhibits, commissioning radio and television programs, furnishing materials for the schools, and providing other education services;
- (3) functioning as an intellectual center, drawing both academics and practitioners to debate and refine constitutional issues and, at the same time, providing intellectual support for the Center's exhibits and public education program; and
- (4) creating archives for programs on the bicentennial of the United States Constitution.

Education.

ACQUISITION OF SITE FOR AND OPERATION OF THE CENTER.

16 USC 407cc.

PROVIDING A SITE.—The Secretary through the General Services Administration, is authorized to provide, upon adequate reimbursement, a site, including necessary structures, for the Center

- (1) using an existing structure or modifying an existing structure for use; or
- (2) constructing a new structure to house the Center. The Secretary may acquire such land as is necessary to provide a site for the Center.

PROVISION OF FUNDS TO THE CENTER.—The Secretary is authorized to make grants to, and enter into cooperative agreements, contracts or leases with the National Constitution Center, Philadelphia, Pennsylvania, which shall operate the Center as provided in this Act in order to carry out the purposes of this Act. Funds authorized to be appropriated under this Act may be made available to the National Constitution Center only to the extent that they are received by such entity with funds from nonfederal sources.

Grants.
Contracts.

DIRECTIVES TO SECRETARY.

16 USC 407dd.

INDEPENDENCE NATIONAL HISTORICAL PARK AND OTHER SITES.—The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution on this country at Independence National Historical Park and at such other sites of the National Park System as are closely associated with the Constitution. The Secretary shall select not less than 12 units of the National Park System for such interpretation, including Independence National Historical Park.

MEMORIAL.—The Secretary is authorized to establish and maintain at Independence National Historical Park an appropriate memorial to the United States Constitution as a key document in the Nation's history.

PUBLIC MATERIALS.—In coordination with the National Constitution Center, the Secretary shall develop and make available to the public interpretive and educational materials related to sites within the National Park System as referred to in subsection (a).

COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners or administrators of historical sites closely associated with the Constitution, pursuant to

which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

Contracts.

(e) **RESEARCH AND EDUCATION.**—The Secretary shall contract with the National Constitution Center and other qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry out the provisions of this Act.

(f) Nothing in this section may be construed to alter or waive the requirement that the Secretary maintain the historic integrity of units of the National Park System, including compliance with section 106 of the Historic Preservation Act (90 Stat. 1320) as amended.

16 USC 407ee.

SEC. 6. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved September 16, 1988.

LEGISLATIVE HISTORY—H.R. 1989:

HOUSE REPORTS: No. 100-107 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-450 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): May 27, considered and passed House.

Vol. 134 (1988): Aug. 9, considered and passed Senate, amended.

Sept. 8, House concurred in Senate amendments.

Public Law 100-434
97th Congress

Joint Resolution

designate the day of September 14, 1988, as “National Medical Research Day”.

Sept. 16, 1988

[S.J. Res. 328]

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical, behavioral, and related research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all human-kind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diphtheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical research through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas 1987 was formally recognized by the Congress and the President of the United States as the National Institutes of Health centennial year, commemorating 100 years of Federal support for medical research;

Whereas America's medical research enterprise has produced 8 internationally respected Nobel laureates in physiology, medicine and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzheimer's disease, arthritis, epilepsy, diabetes, multiple sclerosis, heart and lung disease, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of September 14, 1988, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved September 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 328:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 14, considered and passed House.

Public Law 100-435
100th Congress

An Act

To amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

Sept. 19, 1988
[S. 2560]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Hunger Prevention Act of 1988”.

(b) **TABLE OF CONTENTS.**—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

- Sec. 101. Domestic use as a higher priority than foreign sales.
- Sec. 102. Supplementation of commodities.
- Sec. 103. Extension of TEFAP.
- Sec. 104. Additional commodities program.
- Sec. 105. Distribution costs and regulations.
- Sec. 106. Extension of dairy export incentive program.
- Sec. 107. Extension of export sales of dairy products.

Subtitle B—Soup Kitchens and Other Emergency Food Aid

- Sec. 110. Soup kitchens and food banks.
- Sec. 111. Gleaning technical assistance.

Subtitle C—Basic Food Stamp Benefit Levels

- Sec. 120. Thrifty food plan.

Subtitle D—Commodity Supplemental Food Program

- Sec. 130. Continuation of provision of cheese supplies.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

- Sec. 201. Categorical eligibility.
- Sec. 202. Reporting requirements and calculation of household income.
- Sec. 203. Benefits for households subject to prorating.
- Sec. 204. Optional food stamp information activities.
- Sec. 205. Extension of homeless amendments.

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

- Sec. 210. Improvement of school breakfast program.
- Sec. 211. Addition of one snack or one meal to the Child Care Food Program.
- Sec. 212. Access of homeless women, infants, and children to the special supplemental food program.
- Sec. 213. Summer feeding program.
- Sec. 214. Department of Defense child care feeding program.

Subtitle C—Food Processing and Distribution

- Sec. 220. Encouragement of food processing and distribution by eligible recipient agencies.

Hunger
Prevention Act
of 1988.
Disadvantaged
persons.
State and local
governments.
7 USC 2011 note.

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

Sec. 301. References to the Food Stamp Act of 1977.

Subtitle A—Reducing Unnecessary Paperwork

Sec. 310. Simplified application forms.

Sec. 311. Statement of required verification.

Subtitle B—Assuring Accurate Issuance of Benefits

Sec. 320. Correcting improper denials and underissuances.

Sec. 321. Special training of State personnel involved in certifying farm households.

Sec. 322. Training of certification workers and community resources.

Sec. 323. Preventing incorrect issuances.

Subtitle C—Reducing Barriers in Rural America

Sec. 330. Transportation difficulties in rural areas.

Subtitle D—Eliminating Inequities for Farmers and Others

Sec. 340. Continuation of food stamps to participants in cash-outs of other benefit programs.

Sec. 341. Annualizing self-employment income and expenses from farming.

Sec. 342. Households in transition.

Sec. 343. Technical correction to exclusion of energy assistance from food stamp income.

Sec. 344. Civil money penalties and disqualification of retail food stores and wholesale food concerns.

Subtitle E—Reducing Barriers for the Elderly and Disabled

Sec. 350. Disabled persons receiving benefits under standards at least as stringent as those in the Social Security Act.

Sec. 351. Simplified procedure for claiming excess medical deduction.

Sec. 352. Coordinated application.

TITLE IV—FAMILY SELF-SUFFICIENCY

Sec. 401. References to the Food Stamp Act of 1977.

Sec. 402. Exclusion for advance payment of earned income credit.

Sec. 403. Deduction for dependent care.

Sec. 404. Employment and training.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Farmers' market coupons demonstration project.

Sec. 502. Food bank demonstration project.

Sec. 503. Family or group day care home demonstration project.

Sec. 504. Demonstration projects for development and use of intelligent computer benefit cards to pay food stamp benefits.

Sec. 505. Study of the effectiveness of the food stamp employment and training program.

TITLE VI—IMPROVING PAYMENT ACCURACY

Sec. 601. Review of State program investment when settling claims.

Sec. 602. Interest on claims against State agencies.

Sec. 603. Administrative and judicial review.

Sec. 604. Payment accuracy improvement system.

TITLE VII—IMPLEMENTATION

Sec. 701. Effective dates.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

SEC. 101. DOMESTIC USE AS A HIGHER PRIORITY THAN FOREIGN SALES.

Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

“(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this Act or any other domestic feeding program.”.

Dairy products.

SEC. 102. SUPPLEMENTATION OF COMMODITIES.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding after section 203C the following new section:

“SEC. 203D. STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES.

“(a) **AUTHORIZATION.**—The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this Act for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this Act.

“(b) **USE OF FUNDS AND FACILITIES.**—States and emergency feeding organizations may use the funds appropriated under this Act and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this Act, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a).

“(c) **VOLUNTEER WORKERS.**—State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.”.

SEC. 103. EXTENSION OF TEFAP.

(a) **AUTHORIZATION.**—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out “through September 30, 1988” and inserting in lieu thereof “through September 30, 1990”.

(b) **LOCAL SUPPORT.**—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out “20” and inserting in lieu thereof “40”.

(c) **STORAGE AND PREPARATION.**—The second sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting after “documentation,” the following: “costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities;”.

(d) **NOTICE OF AVAILABILITY OF COMMODITIES.**—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out “the fiscal year ending September 30, 1988” and inserting “each of the fiscal years 1989 and 1990”.

(e) **PROGRAM DATES.**—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out “1988” and inserting in lieu thereof “1990”.

SEC. 104. ADDITIONAL COMMODITIES PROGRAM.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sections:

“SEC. 213. INCORPORATION OF ADDITIONAL COMMODITIES.

“(a) **IN GENERAL.**—The Secretary shall administer the program authorized under this Act in a manner that incorporates into the program additional commodities purchased by the Secretary under section 214 to be distributed to States for use in such States by emergency feeding organizations, as defined in section 201A(1). Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

“(b) **SUPPLEMENT COMMODITIES AVAILABLE.**—The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 202 and 203D(a) with nutritious and useful commodities purchased by the Secretary under section 214.

“SEC. 214. REQUIRED PURCHASES OF COMMODITIES.

“(a) **PURPOSE.**—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be allocated to each State can be precisely calculated for fiscal years 1989 and 1990. The share of commodities, as measured by their value, to be allocated to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

“(b) **DEFINITIONS.**—As used in this section—

“(1) **ADDITIONAL COMMODITIES.**—The term ‘additional commodities’ means commodities purchased under this section in addition to the commodities otherwise made available under sections 202 and 203D(a).

“(2) **AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.**—The term ‘average monthly number of unemployed persons’ refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

“(3) **POVERTY LINE.**—The term ‘poverty line’ has the same meaning given such term in section 673(2) of the Community Development Block Grant Act (42 U.S.C. 9902(2)).

“(4) **TOTAL VALUE OF ADDITIONAL COMMODITIES.**—The term ‘total value of additional commodities’ means the actual cost (including the distribution and processing costs incurred by the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (e).

“(5) **VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.**—The term ‘value of additional commodities allocated to each State’ means the actual cost for additional commodities (including the distribution and processing costs incurred by the Secretary) as paid by the Secretary under this section and allocated to such State.

“(c) **PURCHASE OF COMMODITIES.**—The Secretary shall purchase a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c note), to supplement the commodities otherwise provided under the program authorized by this Act.

“(d) **TYPES AND VARIETIES.**—The Secretary shall, to the extent practicable and appropriate, purchase types and varieties of commodities—

“(1) with high nutrient density per calorie;

“(2) that are easily and safely stored;

“(3) that are convenient to use and consume;

“(4) that are desired by recipient agencies; and

“(5) that meet the requirement imposed by section 203C(a).

“(e) **AMOUNTS.**—During each of the fiscal years 1989 and 1990, the Secretary shall spend \$120,000,000 to purchase, process, and distribute additional commodities under this section.

“(f) **MANDATORY ALLOTMENTS.**—In each fiscal year, the Secretary shall allot—

“(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

“(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

“(g) **REALLOCATION.**—The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (f) or subsection (j) if applicable, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was

Disaster
assistance.

allocated to receive under the formula prescribed in subsection (f) but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

“(h) ADMINISTRATION.—Subject to subsections (e) and (f), or subsection (j) if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f), or reallocated under subsection (g), or calculated under subsection (j) if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.

“(i) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations or reduce the amount of funds available for other nutrition programs in the State in each fiscal year.

“(j) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to promulgate a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

“(1) any such formula is effective at the outset of, and throughout any given fiscal year;

“(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

“(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”.

SEC. 105. DISTRIBUTION COSTS AND REGULATIONS.

(a) DISTRIBUTION COSTS.—Section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: “States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988,

and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 214.”.

(b) **REGULATIONS.**—Section 210 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

“(e) The Secretary is authorized to issue final regulations without first issuing proposed regulations (except as otherwise provided for in section 214(j)) for public comment in order to carry out the provisions of sections 213 and 214. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after the date of enactment of this subsection. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.”.

(c) **STATE OPTIONAL PRIORITY.**—Section 203B(a) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: “Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.”.

SEC. 106. EXTENSION OF DAIRY EXPORT INCENTIVE PROGRAM.

Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking out “1989” and inserting in lieu thereof “1990”.

SEC. 107. EXTENSION OF EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended—

(1) in subsection (a), by striking out “fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988” and inserting in lieu thereof “fiscal years 1986 through 1990”; and

(2) in subsection (c), by striking out “1988” and inserting in lieu thereof “1990”.

Subtitle B—Soup Kitchens and Other Emergency Food Aid

SEC. 110 SOUP KITCHENS AND FOODS BANKS.

7 USC 612c note.

(a) **PURPOSE.**—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be provided to each State for redistribution to soup kitchens and food banks can be precisely calculated for fiscal years 1989 through 1991. The share of commodities, as measured by their value, to be provided to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

(b) **DEFINITIONS.**—As used in this section —

(1) **ADDITIONAL COMMODITIES.**—The term “additional commodities” means commodities purchased under this section in addition to the commodities otherwise made available to soup kitchens and food banks providing nutrition assistance to relieve situations of emergency and distress.

(2) **AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.**—The term “average monthly number of unemployed persons” refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(3) **FOOD BANKS.**—The term “food bank” refers to public and charitable institutions that maintain an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that provide meals or food to needy persons on a regular basis as an integral part of their normal activities.

(4) **POVERTY LINE.**—The term “poverty line” has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(6) **SOUP KITCHENS.**—The term “soup kitchens” refers to public and charitable institutions that maintain an established feeding operation to provide food to needy homeless persons on a regular basis as an integral part of their normal activities.

(7) **TOTAL VALUE OF ADDITIONAL COMMODITIES.**—The term “total value of additional commodities” means the actual cost (including the processing and distribution costs of the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (c).

(8) **VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO A STATE.**—The term “value of additional commodities allocated to a State” means the actual cost for additional commodities (including the processing and distribution costs of the Secretary) as paid by the Secretary for commodities purchased under this section and allocated to such State.

(c) **AMOUNTS.**—During each of the fiscal years 1989 and 1990, the Secretary shall spend \$40,000,000, and in fiscal year 1991, the Secretary shall spend \$32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons.

(d) **MANDATORY ALLOTMENTS.**—In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

(e) ALLOCATION AND REALLOCATION.—

(1) **NOTIFICATION BY SECRETARY.**—The Secretary shall notify each State of the amount of the allocation that the State is entitled to receive under subsection (d).

(2) **NOTIFICATION BY STATE.—**

(A) **ACCEPTANCE AMOUNT.**—A State shall promptly notify the Secretary of the amount of commodities that will be accepted by soup kitchens or food banks. In determining such amount, the State shall give priority to institutions that provide meals to homeless individuals.

Homeless
persons.

(B) **LESS THAN FULL AMOUNT ACCEPTED.**—A State shall promptly notify the Secretary if the State determines that it will not accept the full amount of the allocation under subsection (d) (or a portion thereof).

(3) **REALLOCATION.**—Whenever the Secretary receives a notification under paragraph (2)(B), the Secretary shall reallocate and distribute the amount of such allocation (or any portion thereof) not accepted, in a fair and equitable manner among the States that accept the full amount of their respective allocations under subsection (d) and that have requested receipt of additional allocations.

(f) **ADMINISTRATION.**—Subject to subsection (c), purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines to be appropriate within each fiscal year. All commodities purchased under subsection (c) within each fiscal year shall be provided to States prior to the end of each such fiscal year.

(g) **MAINTENANCE OF EFFORT.**—If a State uses its own funds to provide commodities or services under this section, such State funds shall not be obtained from existing Federal or State programs.

(h) INCREASED COMMODITY LEVELS AND MAINTENANCE OF EFFORT.—

(1) **INCREASED COMMODITY LEVELS.**—Commodities provided under the amendments made by section 104 and under this section shall be in addition to the commodities otherwise provided (through commodity donations traditionally provided by the Secretary or the Commodity Credit Corporation) to emergency feeding organizations. The value of the commodity donations traditionally provided to such organizations shall not be diminished as a result of the purchases required by the amendments made by section 104 and this section.

(2) **FEDERAL MAINTENANCE.**—The purchase of commodities required under the amendments made by section 104 and under this section, shall not be made in such a manner as to cause any reduction in the value of the bonus commodities that would otherwise be distributed, in the absence of section 104 and this section, to charitable institutions, or to any other domestic food assistance program, such as the programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the

Food Stamp Act of 1977, or sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973.

(3) **OTHER MAINTENANCE.**—Local agencies receiving commodities purchased under this section shall provide an assurance to the State that donations of foodstuffs from other sources shall not be diminished as a result of the receipt of commodities under this section.

(i) **NEW FORMULA.**—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to establish a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

(1) any such formula is effective at the outset of, and throughout any given fiscal year;

(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

7 USC 612c note. **SEC. 111. GLEANING TECHNICAL ASSISTANCE.**

(a) **GLEANING DEFINED.**—As used in this section, the term “gleaning” means—

(1) obtaining harvested or unharvested agricultural products from farmers, processors, or retailers; or

(2) obtaining food or meals donated by public or private entities (where State and local health and food safety regulations permit such donations);

in order to facilitate the distribution of such products or such food or meals to needy individuals, but only if such products or such food or meals, and the access to such, are obtained with the permission of the owner and without charge therefor.

(b) **DUTIES.**—The Secretary of Agriculture shall provide technical assistance to State and local agencies to—

(1) assist such agencies in encouraging public and private nonprofit organizations to initiate and carry out gleaning activities and in providing technical assistance to organizations and individuals involved in gleaning; and

(2) assist such agencies in collecting information on the kinds, amounts, and geographical location of agricultural products and food or meals available for gleaning.

Voluntarism.

(c) **ADMINISTRATION.**—The Secretary of Agriculture may use Department of Agriculture employees and volunteers, as may be necessary, to carry out this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section, there are authorized to be appropriated \$500,000 for each of fiscal years 1989 and 1990.

Subtitle C—Basic Food Stamp Benefit Levels

SEC. 120. THRIFTY FOOD PLAN.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

- (1) in clause (7), by striking out “and” at the end thereof;
- (2) in clause (8), by inserting “through October 1, 1987” after “thereafter”; and
- (3) by striking out the colon and all that follows through the period at the end thereof and inserting in lieu thereof the following: “, (9) on October 1, 1988, adjust the cost of such diet to reflect 100.65 percent of the cost of the thrifty food plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, (10) on October 1, 1989, adjust the cost of such diet to reflect 102.05 percent of the cost, in the preceding June (without regard to the adjustment made under clause (9)), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size, and (11) on October 1, 1990, and each October 1 thereafter, adjust the cost of such diet to reflect 103 percent of the cost, in the preceding June (without regard to any previous adjustment made under clause (9), (10), or this clause), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size.”.

Subtitle D—Commodity Supplemental Food Program

SEC. 130. CONTINUATION OF PROVISION OF CHEESE SUPPLIES.

7 USC 612c note.

Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation's inventory levels permit, provide 7,000,000 pounds of cheese in each of the fiscal years 1989 and 1990 to the Secretary of Agriculture and the Secretary shall provide such amounts of cheese to the Commodity Supplemental Food Program authorized under section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) before the end of each fiscal year.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

SEC. 201. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

- (1) by striking out “during the period”; and

(2) by striking out “and ending on September 30, 1989”.

SEC. 202. REPORTING REQUIREMENTS AND CALCULATION OF HOUSEHOLD INCOME.

(a) **CALCULATION OF HOUSEHOLD INCOME.**—Section 5(f) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

“(2)(A) Households not required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

“(B) Households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, or at the option of the State the first and second months, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household’s income and other relevant circumstances in such first or second month.”.

(b) **OPTIONAL MONTHLY REPORTING.**—Section 6(c) of such Act (7 U.S.C. 2015(c)) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

“(1)(A) A State agency may require certain categories of households to file periodic reports of income and household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting by—

“(i) migrant or seasonal farmworker households;

“(ii) households in which all members are homeless individuals; or

“(iii) households that have no earned income and in which all adult members are elderly or disabled.

“(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations.”.

(c) **MONTHLY NOTICE.**—Section 6(c)(2) of such Act (7 U.S.C. 2015(c)(2)) is amended—

(1) by striking out “and (D)” and inserting “(D)”; and

(2) by inserting before the period the following: “, and (E) be provided each month (or other applicable period) with an appropriate, simple form for making the required reports of the household together with clear instructions explaining how to complete the form and the rights and responsibilities of the household under any periodic reporting system”.

SEC. 203. BENEFITS FOR HOUSEHOLDS SUBJECT TO PRORATING.

(a) **IN GENERAL.**—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (2) (as so redesignated), by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively; and

Homeless
persons.

Aged persons.
Handicapped
persons.

Reports.

(3) by adding at the end thereof the following new paragraph:
“(3) An eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).”.

(b) **CONFORMING AMENDMENT.**—Section 7(h) is amended—

7 USC 2016.

(1) by striking out “(1)”; and

(2) by repealing paragraph (2).

SEC. 204. OPTIONAL FOOD STAMP INFORMATION ACTIVITIES.

(a) **OPTIONAL INFORMATION ACTIVITIES.**—Subparagraph (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: “(A) at the option of the State agency, inform low-income households about the availability, eligibility requirements, application procedures, and benefits of the food stamp program; and”.

(b) **ADMINISTRATIVE COSTS.**—Section 16(a)(4) of such Act (7 U.S.C. 2025(a)(4)) is amended by striking out “permitted” and inserting in lieu thereof “, including those undertaken”.

SEC. 205. EXTENSION OF HOMELESS AMENDMENTS.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (7 U.S.C. 2012 note) is amended by inserting “, except those amendments made by subsection (b),” after “this section”.

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

SEC. 210. IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM.

The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking out “3 cents” and inserting in lieu thereof “6 cents”.

SEC. 211. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by inserting before the period the following: “, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), two meals and two supplements or three meals and one supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.”.

SEC. 212. ACCESS OF HOMELESS WOMEN, INFANTS, AND CHILDREN TO THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) **DEFINITIONS.**—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by adding at the end thereof the following new paragraph:

“(15) ‘Homeless individual’ means—

“(A) an individual who lacks a fixed and regular nighttime residence; or

“(B) an individual whose primary nighttime residence is—

“(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

“(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

“(iii) a temporary accommodation in the residence of another individual; or

“(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.”

(b) **GENERAL AUTHORITY.**—The last sentence of section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended to read as follows: “The program shall be supplementary to—

“(A) the food stamp program;

“(B) any program under which foods are distributed to needy families in lieu of food stamps; and

“(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.”

(c) **STATE ADMINISTRATION.**—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)(C)(iv), by striking out “migrants” and inserting in lieu thereof “migrants, homeless individuals,”;

(2) in paragraph (8)(A), by inserting “organizations and agencies serving homeless individuals and shelters for victims of domestic violence,” after “Indian tribal organizations,”;

(3) in paragraph (13), by striking out “cultural eating patterns.” and inserting in lieu thereof the following: “cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals.”; and

(4) by adding at the end thereof the following new paragraph:

“(17) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.”

Homeless
persons.

SEC. 213. SUMMER FEEDING PROGRAM.

(a) **ELIGIBLE SERVICE INSTITUTIONS.**—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in subparagraph (B), by inserting “, public or private nonprofit higher education institutions participating in the National Youth Sports Program,” after “county governments”.

(b) **ELIGIBLE PRIVATE NONPROFIT ORGANIZATIONS.**—Section 13(a) of the Act is amended by adding at the end thereof the following new paragraph:

“(7)(A) Not later than May 1, 1989, the Secretary shall institute Statewide demonstration projects in five States in which private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under section 13(a)(1)), shall be eligible for the program under the same terms and conditions as other service institutions.

“(B) As used in this paragraph, the term ‘private nonprofit organizations’ means those organizations that—

“(i) serve no more than 2,500 children per day and operate at not more than 5 sites;

“(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university);

Schools and
colleges.

“(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;

“(iv) exercise full control and authority over the operation of the program at all sites under their sponsorship;

“(v) provide ongoing year-around activities for children;

“(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

“(vii) meet applicable State and local health, safety, and sanitation standards.”. Safety.

SEC. 214. DEPARTMENT OF DEFENSE CHILD CARE FEEDING PROGRAM.

Section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended—

(1) by inserting “(1)” after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

“(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.”.

Subtitle C—Food Processing and Distribution

SEC. 220. ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES.

7 USC 612c note.

(a) SOLICITATION OF APPLICATIONS.—

(1) **IN GENERAL.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall, to the extent that the Commodity Credit Corporation's inventory levels permit, solicit applications, in accordance with paragraph (2), for surplus commodities available for distribution under section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(2) **REQUIREMENTS.**—The solicitation by the Secretary of Agriculture under paragraph (1) shall be in the form of a request that any eligible recipient agency (as defined in section 201A of the Temporary Emergency Food Assistance Act of 1983) submit an application to the Secretary that shall include an assurance that such agency will—

(A) process any agricultural commodity received in response to such application into end-use products suitable for distribution through the Temporary Emergency Food Assistance Program;

(B) package such products for use by individual households; and

(C) distribute such products to State agencies responsible for the administration of the Temporary Emergency Food Assistance Program, at no cost to the State agency, for distribution through the Temporary Emergency Food Assistance Program.

(3) **PROHIBITION ON PAYMENT OF PROCESSING COSTS.**—Funds made available under section 204 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) or funds of the Commodity Credit Corporation shall not be used to pay any costs incurred for the processing, storage, transportation or distribution of the commodities or end-use products prior to their delivery to the State agency.

(b) **REVIEW OF APPLICATIONS.**—

(1) **TIME OF REVIEW.**—Not later than 60 days after the Secretary of Agriculture receives an application solicited under subsection (a), the Secretary shall approve or disapprove such application.

(2) **NOTICE OF DISAPPROVAL.**—If the Secretary disapproves the application submitted under subsection (a), the Secretary shall inform the applicant of the reasons for such disapproval.

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

SEC. 301. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

Subtitle A—Reducing Unnecessary Paperwork

SEC. 310. SIMPLIFIED APPLICATION FORMS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)), is amended by inserting after “exigencies as determined by the Secretary” the following: “, and in approving such deviation, the Secretary takes into account whether such State forms are easy to use, brief and readable. In consultation with the Secretary of Health and Human Services, the Secretary shall develop a program to provide assistance to States that request assistance in the development of brief, simply-written and readable application forms including application forms that cover the food stamp program, the aid to families with dependent children program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and medical assistance programs administered by the Secretary of Health and Human Services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). Each food stamp application form shall contain, in plain and prominent language on its front cover, a place where applicants can write their names, addresses, and signatures, and instructions in understandable terms informing households of their right to file the application without immediately completing additional sections, describing the expe-

Health and
medical care.

dated processing requirements of section 11(e)(9) and informing households that benefits are provided only from the date of application”.

SEC. 311. STATEMENT OF REQUIRED VERIFICATION.

Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by inserting before the semicolon at the end thereof the following: “, and that the State agency shall—

“(A) provide each applicant household, at the time of application, a clear written statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

“(B) assist each applicant household in obtaining appropriate verification and completing the application process;

“(C) not require any household to submit additional proof of a matter on which the State agency already has current verification as determined under regulations issued by the Secretary, unless the State agency has reason to believe that the information possessed by the agency is inaccurate, incomplete, or inconsistent;

“(D) subject to subparagraph (E), not deny any application for participation under this program solely because of the failure of a person outside the household to cooperate (other than an individual failing to cooperate who would otherwise be a household member but for the operation of any of the individual disqualification provisions of subsections (b), (d), (e), (f), and (g) of section 6; and

“(E) process applications if a household complies with the requirements of the first sentence of section 6(c), by taking appropriate steps to verify information otherwise required to be verified under this Act”.

Subtitle B—Assuring Accurate Issuance of Benefits

SEC. 320. CORRECTING IMPROPER DENIALS AND UNDERISSUANCES.

Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

“(p) When a State agency learns, through its own reviews under section 16 or other reviews, or through other sources, that it has improperly denied, terminated, or underissued benefits to an eligible household, the State agency shall promptly restore any improperly denied benefits to the extent required by sections 11(e)(11) and 14(b), and shall take other steps to prevent a recurrence of such errors where such error was caused by the application of State agency practices, rules or procedures inconsistent with the requirements of this Act or with regulations or policies of the Secretary issued under the authority of this Act.”.

SEC. 321. SPECIAL TRAINING OF STATE PERSONNEL INVOLVED IN CERTIFYING FARM HOUSEHOLDS.

- (a) TRAINING.—Section 11(e)(6) (7 U.S.C. 2020(e)(6)) is amended—
- (1) by striking out “and (C)” at the end of subparagraph (B) and inserting in lieu thereof “(C)”; and

(2) in subparagraph (A), to read as follows: “(A) under any Federal law, or”; and

(3) in subparagraph (B)—

(A) by striking out “any” and inserting in lieu thereof “under any”; and

(B) by striking out “for the purpose of providing energy assistance”.

SEC. 344. CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended to read as follows:

“(3) permanent upon—

“(A) the third occasion of disqualification; or

“(B) the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern, except that the Secretary shall have the discretion to impose a civil money penalty of up to \$20,000 in lieu of disqualification under this subparagraph, for such purchase of coupons or trafficking in coupons or cards that constitutes a violation of the provisions of this Act or the regulations issued pursuant to this Act, if the Secretary determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the Act and the regulations.”.

Subtitle E—Reducing Barriers for the Elderly and Disabled

SEC. 350. DISABLED PERSONS RECEIVING BENEFITS UNDER STANDARDS AT LEAST AS STRINGENT AS THOSE IN THE SOCIAL SECURITY ACT.

Paragraph (2) of section 3(r) (7 U.S.C. 2012(r)) is amended to read as follows:

“(2)(A) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or Federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93-66 (42 U.S.C. 1382 note), or

Blind persons.

“(B) receives Federally or State administered supplemental assistance of the type described in section 1616(a) of the Social Security Act (42 U.S.C. 1382e(a)), interim assistance pending receipt of supplemental security income, disability-related medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or disability-based State general assistance benefits, if the Secretary determines that such benefits are conditioned on meeting disability or blindness criteria at least as stringent as those used under title XVI of the Social Security Act;”.

SEC. 351. SIMPLIFIED PROCEDURE FOR CLAIMING EXCESS MEDICAL DEDUCTION.

Section 5(e) (7 U.S.C. 2014(e)) is amended by adding at the end thereof the following new sentences: “State agencies shall offer

eligible households a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction provided for in subparagraph (A), in lieu of submitting information or verification on actual expenses on a monthly basis. The method described in the preceding sentence shall be designed to minimize the administrative burden for eligible elderly and disabled household members choosing to deduct their recurrent medical expenses pursuant to such method.”.

SEC. 352. COORDINATED APPLICATION.

The second sentence of section 11(i) (7 U.S.C. 2020(i)) is amended to read as follows: “In addition to implementing paragraphs (1) through (4), the State agency shall inform applicants for benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that such applicants may file, along with their application for such benefits, an application for benefits under this Act, and that if such applicants file, they shall have a single interview for food stamps and for benefits under part A of title IV of the Social Security Act.”.

TITLE IV—FAMILY SELF-SUFFICIENCY

SEC. 401. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 402. EXCLUSION FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Section 5(d) (7 U.S.C. 2014(d)) is amended—

(1) by striking out “and (13)” and inserting in lieu thereof “(13)”; and

(2) by inserting before the period at the end thereof the following: “, (14) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit)”.

SEC. 403. DEDUCTION FOR DEPENDENT CARE.

(a) **IN GENERAL.**—Section 5(d) (7 U.S.C. 2014(d)) (as amended by section 402) is further amended by inserting before the period at the end thereof the following: “, and (15) any payment made to the household under section 6(d)(4)(I) for work related expenses or for dependent care”.

(b) **DEDUCTION.**—Section 5(e) (7 U.S.C. 2014(e)) is amended—

(1) in the matter preceding paragraph (1) of the fourth sentence by inserting “and expenses that are paid under section 6(d)(4)(I) for dependent care” after “third party”; and

(2) in paragraph (1) of the fourth sentence, by inserting after “\$160 a month” the following: “for each dependent”.

SEC. 404. EMPLOYMENT AND TRAINING.

(a) **COMPONENTS OF EMPLOYMENT AND TRAINING PROGRAMS.**—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(1) in clause (i), by striking out “have no obligation” through “State agency shall”;

(2) in clause (v)—

(A) by inserting “or the State under regulations issued by the Secretary,” after “the Secretary”; and

(B) by inserting “employment, educational and training” after “other”;

(3) by redesignating clause (v) (as amended by paragraph (2)) as clause (vi); and

(4) by inserting after clause (iv), the following new clause:

Education.

“(v) Educational programs or activities to improve basic skills or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.”

(b) **EMPLOYMENT ASSIGNMENTS AND CONCILIATION.**—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended—

(1) by redesignating subparagraphs (H), (I), (J), (K), and (L) as subparagraphs (I), (J), (K), (M) and (N), respectively; and

(2) by inserting after subparagraph (G), the following new subparagraph:

Regulations.

“(H)(i) The Secretary shall issue regulations under which each State agency shall establish a conciliation procedure for the resolution of disputes involving the participation of an individual in the program.

“(ii) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.”

(c) **PARTICIPANTS’ EXPENSES.**—Section 6(d)(4)(I) (as redesignated by subsection (b) of this section), is amended to read as follows:

Grants.

“(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

Transportation.

“(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to \$25 per month; and

“(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) in a local area where an employment, training, or education program under title IV of such Act is in operation or was in operation, on the date of enactment of the Hunger Prevention Act of 1988, but in no event shall such payment or reimbursements exceed \$160 per dependent per month. Individuals subject to the program under this paragraph may not be required to participate if dependent care costs exceed \$160 per dependent per month.

Contracts.

“(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of purchase of service contracts or vouchers or by providing vouchers to the household.

“(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

“(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

“(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of the Internal Revenue Code of 1986.”.

(d) PERFORMANCE STANDARDS AND PARTICIPATION STANDARDS.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by inserting after subparagraph (K) (as redesignated by subsection (b)) the following new subparagraph:

“(L)(i) The Secretary shall establish, in accordance with this subparagraph, performance standards that are applicable to employment and training programs carried out under this paragraph.

“(ii) The performance standards referred to in clause (i) shall be developed by the Secretary after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials designated for purposes of this clause by the chief executive officers of the States, other appropriate experts, and representatives of households participating in the food stamp program. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the performance standards under title IV of the Social Security Act (42 U.S.C. 601 et seq.), taking into consideration the differing characteristics of such households)—

“(I) shall be measured by employment outcomes and shall be based on the degree of success that may reasonably be expected of States (in carrying out employment and training programs) in helping individuals to achieve self-sufficiency;

“(II) shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph, job placement rates, wage rates, job retention rates, households ceasing to need benefits under this Act, and improvements in household members’ educational levels;

“(III) shall encourage States to serve those individuals who have greater barriers to employment and thus have greater difficulties in achieving self-sufficiency; and

“(IV) shall include guidelines permitting appropriate variations that take into account the differing conditions (including unemployment rates and rates of elective participation under subparagraph (G) in employment and training programs under this paragraph) that may exist in different States.

“(iii) Final measures for the performance standards referred to in clause (i) shall be published by the Secretary, after the consideration of public comments concerning the proposed measures for such performance standards, and implemented by the States not later than April 1, 1991.

“(iv) The performance standards developed and issued under clause (ii) shall be varied in any State, to the extent permitted under clause (ii)(IV), to the extent necessary to take into account specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.

Effective date.
Termination
date.

“(v) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the performance standards required to be issued under this subparagraph on which date the authority to issue such standards shall expire.

“(vi) Not later than 180 days after the Secretary publishes the proposed measures for the performance standards under this subparagraph, the Office of Technology Assessment shall—

“(I) develop model performance standards suitable for application to employment and training programs carried out under this subsection and that satisfy the criteria specified in this subparagraph;

“(II) compare the standards developed under subclause (I) with the performance standards established under this subparagraph by the Secretary, and

Reports.

“(III) submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Secretary of Agriculture a report describing the results of the comparison required under subclause (II).”

(e) INCENTIVE PAYMENTS.—Section 16(h) (7 U.S.C. 2025(h)) is amended by adding at the end thereof the following new paragraph:

“(6) The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).”

(f) HOUSEHOLDS.—Section 5(d)(5) (7 U.S.C. 2014(d)(5)) is amended by inserting after “child care expenses” the following: “(except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988)”

Transportation.

(g) REIMBURSABLE COSTS.—Section 16(h)(3) (7 U.S.C. 2025) is amended by inserting after “month” the following: “for costs of transportation and other actual costs (other than dependent care costs) and an amount representing \$160 per month per dependent”.

TITLE V—DEMONSTRATION PROJECTS

Grants.

SEC. 501. FARMERS' MARKET COUPONS DEMONSTRATION PROJECT.

42 USC 1786
note.

(a) PURPOSE.—The purpose of this section is to authorize the establishment of a grant program to encourage State demonstration projects designed to—

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at such markets.

(b) GENERAL AUTHORITY.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

“(m)(1) Subject to the availability of funds appropriated for purposes of this subsection, the Secretary shall award a 3-year grant to up to 10 States that submit applications that are approved for the establishment of demonstration projects designed to provide recipi-

ents of assistance under subsection (c) with coupons that may be exchanged for foods at farmers' markets.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) assure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless such State agrees to provide State funds for the demonstration project in an amount that is equal to not less than 30 percent of the total cost of the demonstration project which may be satisfied from State contributions that are made for similar projects.

"(4)(A) The Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which an application is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the application of the State.

"(B) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which an application is approved under paragraph (6) the amount which the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced.

"(5) Each State that receives a grant under this subsection shall ensure that the demonstration project for which the grant is received complies with the following requirements:

"(A) Persons who are eligible to receive Federal benefits under the project shall only be persons who are receiving assistance under subsection (c).

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph

(3).

"(C) The value of the Federal share of the benefit received by any recipient under the project may not be—

"(i) less than \$10 per year; or

"(ii) more than \$20 per year.

"(D) The coupon issuance process under the project shall be designed to ensure that coupons target areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the project shall be designed to ensure that coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the project; and

"(ii) redeemed only to purchase unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may not use for administration of such project for any fiscal year more than 10 percent of the total amount of project funds.

“(ii) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional two percent of the total project funds for administration of such project for any fiscal year.

“(iii) The provisions of clauses (i) and (ii) with respect to the use of project funds for the administration of the project shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements under subparagraph (B).

Taxes.

“(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the project.

“(6)(A) A State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

“(B)(i) Each application submitted under this paragraph shall contain—

“(I) the estimated cost of the program and the estimated number of individuals to be served by such program;

“(II) a description of the State plan for complying with the requirements established in paragraph (5); and

“(III) criteria developed by the State with respect to authorization of producers to participate in the program.

“(ii) The criteria developed by the State as required by clause (i)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the project.

“(C) The Secretary shall establish objective criteria for the approval of applications submitted under this paragraph.

“(D) In approving applications submitted under this paragraph, the Secretary shall—

“(i) favorably consider a State's prior experiences with programs in existence as of the date of enactment of the Hunger Prevention Act of 1988;

“(ii) favorably consider a State's operation of a similar project with State or local funds that can present data concerning the value of such project, and such data can be of assistance to other States interested in developing such farmers' market coupons projects;

“(iii) award a grant to at least one applicant that proposes to operate the program on a Statewide basis;

“(iv) give preference to applications from States that propose projects that are determined by the Secretary to—

“(I) have possible national significance; or

“(II) show unusual promise in promoting similar projects;

“(v) give preference to applications that show promise of continued operation of the project for which the grant is requested after the grant expires;

“(vi) require that if a State receives a grant under this section and that State is operating a similar project with State or local funds, that State shall not reduce in any fiscal year the amount of State and local funds available to the project in the preceding fiscal year after receiving funds for the project under this subsection; and

“(vii) give preference to applications for projects that would serve areas in the State that have—

“(I) the highest concentration of eligible persons;

“(II) the greatest access to farmers’ markets;

“(III) broad geographical area;

“(IV) the greatest number of participants in the broadest geographical area within the State; and

“(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons.

“(7)(A) The value of the benefit received by any recipient under any project for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under any other State or Federal program.

“(B) Any projects for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

“(8) Each State that receives a grant under this subsection shall submit a report to the Secretary for each year of the grant period. Each such report shall include—

Reports.

“(A) the number of recipients served under the project for which the grant is received;

“(B) the rate of redemption of coupons distributed under the project;

“(C) the types of foods purchased with the coupons;

“(D) the average amount distributed in coupons to each recipient;

“(E) any change in the amount of food purchased at farmers’ markets after the establishment of the project;

“(F) any change in the number of farmers participating in farmers’ markets after the establishment of the project;

“(G) a description of how coupons were distributed to and redeemed by recipients in the State project; and

“(H) any other information determined to be necessary by the Secretary.

“(9)(A) The Secretary shall evaluate the projects for which grants are received under this subsection and submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on such evaluations.

“(R) Such report shall be submitted before the end of the 2-year period beginning on the date that the last grant is awarded under this subsection.

Reports.

“(10) There are authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 1989, \$2,800,000 for fiscal year 1990, and \$3,500,000 for fiscal year 1991.

Appropriation authorization.

“(11) For purposes of this subsection:

“(A) The term ‘recipient’ means a person who is chosen by a State to receive benefits under a project.

“(B) The term ‘State agency’ has the meaning provided in subsection (b)(13), except that such term also includes the agriculture department of each State.”.

SEC. 502. FOOD BANK DEMONSTRATION PROJECTS.

7 USC 612c note.

(a) IN GENERAL.—The Secretary of Agriculture may carry out demonstration projects to provide and redistribute to needy individ-

uals and families through community food banks and other charitable food banks—

(1) agricultural commodities or the products thereof made available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

(2) to the extent practicable, agricultural commodities or the products thereof made available under section 32 of the Act entitled “An Act to amend the Agricultural Adjustment Act, and for other purposes”, approved August 24, 1935 (7 U.S.C. 612c).

(b) **FOOD TYPES.**—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks under this section.

(c) **REPORT.**—Not later than July 1, 1990, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing any demonstration projects carried out under this section. The report shall include an analysis and evaluation of the distribution and redistribution of food under the demonstration projects and the feasibility of expanding the projects to other community food banks.

(d) **TERMINATION.**—The authority provided under this section shall terminate on September 30, 1990.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section, \$400,000 for each of the fiscal years 1989 through 1990.

42 USC 1766
note.

SEC. 503. FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.

(a) **IN GENERAL.**—The Secretary of Agriculture shall conduct a demonstration project to begin 30 days after enactment of this Act, but in no event earlier than October 1, 1988, in one State regarding the Child Care Food Program authorized under section 17 of the National School Lunch Act (42 U.S.C. 1766) in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under subsections (d) and (f) of section 17 for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day.

(b) **LOCATION.**—The Secretary of Agriculture shall select one State in which to conduct the demonstration project established under subsection (a). The State shall have a large number of children served by family or group day care homes and shall have a large proportion of its Child Care Food Program meals served under such program in homes rather than in day care centers.

(c) **PURPOSE OF DEMONSTRATION.**—The demonstration project established under subsection (a) shall be structured in a manner that will enable the Secretary of Agriculture to determine—

(1) if the additional meal or supplement for children staying in day care homes longer than eight hours would increase participation in the Child Care Food Program by family and group day care homes;

(2) the extent to which meal service increases at such homes; and

(3) the nutritional impact of the additional meal or supplement.

(d) **REPORT.**—Not later than August 1, 1989, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Senate Committee on Agriculture, Nutrition, and Forestry, a preliminary report that describes the results of the project conducted under this section. As expeditiously as possible after the conclusion of such project, the Secretary shall prepare and submit to such Committees a final report concerning the project.

(e) **TERMINATION.**—The demonstration project required by this section shall terminate not later than 12 months after the date on which the project was fully initiated.

SEC. 504. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF INTELLIGENT COMPUTER BENEFIT CARDS TO PAY FOOD STAMP BENEFITS.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

“(f)(1) In order to encourage States to plan, design, develop, and implement a system for making food stamp benefits available through the use of intelligent benefit cards or other automated or electronic benefit delivery systems, the Secretary may conduct one or more pilot or experimental projects, subject to the restrictions imposed by subsection (b)(1) and section 7(g)(2), designed to test whether the use of such cards or systems can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. Intelligent benefit cards developed under such a demonstration project shall contain information, encoded on a computer chip embedded in a credit card medium, including the eligibility of the individual and the amount of benefits to which such individual is entitled. Any other automated or electronic benefit delivery system developed under such a demonstration project shall be able to use a plastic card to access such information from a data file.”.

SEC. 505. STUDY OF THE EFFECTIVENESS OF THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) (as amended by section 504), is further amended by adding at the end thereof the following new subsection:

“(g) In order to assess the effectiveness of the employment and training programs established under section 6(d) in placing individuals into the work force and withdrawing such individuals from the food stamp program, the Secretary is authorized to carry out studies comparing the pre- and post-program labor force participation, wage rates, family income, level of receipt of food stamp and other transfer payments, and other relevant information, for samples of participants in such employment and training programs as compared to the appropriate control or comparison groups that did not participate in such programs. Such studies shall, to the maximum extent possible—

Records.

“(1) collect such data for up to 3 years after the individual has completed the employment and training program; and

“(2) yield results that can be generalized to the national program as a whole.

The results of such studies and reports shall be considered in developing or updating the performance standards required under section 6.”

TITLE VI—IMPROVING PAYMENT ACCURACY

SEC. 601. REVIEW OF STATE PROGRAM INVESTMENT WHEN SETTLING CLAIMS.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)) is amended by inserting at the end thereof the following new sentence: “In determining whether to settle, adjust, compromise, or waive a claim arising against a State agency pursuant to section 16(c), the Secretary shall review a State agency’s plans for new dollar investment in activities to improve program administration in order to reduce payment error, and shall take the State agency’s plans for new dollar investment in such activities into consideration as the Secretary considers appropriate.”.

SEC. 602. INTEREST ON CLAIMS AGAINST STATE AGENCIES.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)), as amended by section 601, is further amended by adding at the end thereof the following new sentences: “To the extent that a State agency does not pay a claim established under section 16(c)(1)(C), including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection (after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary) is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 16(c)(7). If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 2 years after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned. Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.”.

Claims.

SEC. 603. ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

Records.

(1) by inserting immediately after the fifth sentence the following new sentences: “Determinations regarding claims made pursuant to section 16(c) shall be made on the record after

opportunity for an agency hearing in accordance with section 556 and 557 of title 5, United States Code, in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence. Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections 13 (c) and (d) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499m (c) and (d)) and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence. The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 16(c). The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 16(c) in amounts less than \$50,000. Such summary procedure need not include an oral hearing. On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than \$50,000. Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 16(c) shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.”;

Effective date.

(2) by inserting before the period at the end of the eighth sentence (as it existed before the amendment made by paragraph (1)) “, except that judicial review of determinations regarding claims made pursuant to section 16(c) shall be a review on the administrative record”; and

(3) by adding at the end thereof the following new sentence: “Notwithstanding the administrative or judicial review procedures set forth in this subsection, determinations by the Secretary concerning whether a State agency had good cause for its failure to meet error rate tolerance levels established under section 16(c) are final.”.

SEC. 604. PAYMENT ACCURACY IMPROVEMENT SYSTEM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

“(c)(1) The program authorized under this Act shall include a system that enhances payment accuracy by establishing fiscal incentives that require State agencies with high error rates to share in the cost of payment error and provide enhanced administrative funding to States with the lowest error rates. Under such system—

“(A) the Secretary shall adjust a State agency’s federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share of all such administrative costs by one percentage point to a maximum of 60 percent of all such administrative costs for each full one-tenth of a percentage point by which the payment error rate is less than 6 percent, except that only States whose rate of invalid decisions in denying eligibility is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment prescribed in this subsection;

"(B) the Secretary shall foster management improvements by the States pursuant to subsection (b) by requiring State agencies other than those receiving adjustments under subparagraph (A) to develop and implement corrective action plans to reduce payment errors; and

"(C) for any fiscal year in which a State agency's payment error rate exceeds the payment error tolerance level for payment error rates announced under paragraph (6), other than for good cause shown, the State agency shall pay to the Secretary an amount equal to its payment error rate less such tolerance level times the total value of allotments issued in such a fiscal year by such State agency. The amount of liability shall not be affected by corrective action under subparagraph (B).

"(2) As used in this section—

"(A) the term 'payment error rate' means the sum of the point estimates of an overpayment error rate and an underpayment error rate determined by the Secretary from data collected in a probability sample of participating households;

"(B) the term 'overpayment error rate' means the percentage of the value of all allotments issued in a fiscal year by a State agency that are either—

"(i) issued to households that fail to meet basic program eligibility requirements; or

"(ii) overissued to eligible households; and

"(C) the term 'underpayment error rate' means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

"(3) The following errors may be measured for management purposes but shall not be included in the payment error rate:

"(A) Any errors resulting in the application of new regulations promulgated under this Act during the first 60 days (or 90 days at the discretion of the Secretary) from the required implementation date for such regulations.

"(B) Errors resulting from the use by a State agency of correctly processed information concerning households or individuals received from Federal agencies or from actions based on policy information approved or disseminated, in writing, by the Secretary or the Secretary's designee.

"(4) The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, enhanced administrative funding, or claim for payment error, under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

Records.

"(5) To facilitate the implementation of this subsection each State agency shall submit to the Secretary expeditiously data regarding its operations in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for such fiscal year and determine the amount of either incentive payments under paragraph (1)(A) or claims under paragraph (1)(C). The Secretary shall make a determination for a fiscal year, and notify the State agency of such determination, within nine months following the end of each fiscal year. The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim established under

Claims.

paragraph (1)(C) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 14 (as provided for in paragraph (7)), before the end of the fiscal year following such fiscal year.

“(6) At the time the Secretary makes the notification to State agencies of their error rates and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C), the Secretary shall also announce a national performance measure that shall be the sum of the products of each State agency’s error rate as developed for the notifications under paragraph (5) times that State agency’s proportion of the total value of national allotments issued for the fiscal year using the most recent issuance data available at the time of the notifications issued pursuant to paragraph (5). Where a State fails to meet reporting requirements pursuant to paragraph (4), the Secretary may use another measure of a State’s error developed pursuant to paragraph (5), to develop the national performance measure. The announced national performance measure shall be used to establish a payment-error tolerance level. Such tolerance level for any fiscal year will be one percentage point added to the lowest national performance measure ever announced up to and including such fiscal year under this section. The payment-error tolerance level shall be used in determining the State share of the cost of payment error under paragraph (1)(C) for the fiscal year whose error rates are being announced under paragraph (5).

Claims.

“(7) If the Secretary asserts a financial claim against a State agency under paragraph (1)(C), the State may seek administrative and judicial review of the action pursuant to section 14.”; and

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

“(d) The Secretary shall undertake the following studies of the payment error improvement system established under subsection (c):

Reports.

“(1) An assessment of the feasibility of measuring payment errors due to improper denials and terminations of benefits or otherwise developing performance standards with financial consequences for improper denials and terminations, including incorporation in subsection (c). The Secretary shall report the results of such study and the recommendations of the Secretary to the Congress by July 1, 1990.

“(2) An evaluation of the effectiveness of the system of program improvement initiated under this section that shall be reported to the Congress along with the Secretary’s recommendations no later than 3 years from the date of enactment of this section.”.

TITLE VII—IMPLEMENTATION

SEC. 701. EFFECTIVE DATES.

7 USC 2012 note.

(a) IN GENERAL.—Except as otherwise provided for in section 503 and in subsection (b) of this section, this Act and the amendments made by this Act shall become effective and be implemented on October 1, 1988.

(b) SPECIAL RULES.—

(1) The amendments made by sections 101, 103, 301, 321(c), 343, and 401 shall become effective and be implemented on the date of enactment of this Act.

(2) The amendments made by section 402 shall become effective and be implemented on January 1, 1989.

(3)(A) The amendments made by section 203(a) shall become effective on January 1, 1989, and the States shall implement such section by January 1, 1990.

(B) The amendments made by section 203(b) shall become effective on January 1, 1989, except with regards to those States not implementing section 203(a).

(4) The amendments made by sections 204, 210, 211, subsections (a)(1), (c), and (e) of section 404, and sections 310 through 352 shall become effective and implemented on July 1, 1989.

(5) The amendments made by title VI shall be effective as follows:

(A) Except as provided in subparagraph (D), the provisions of section 16(c) of the Food Stamp Act of 1977, as amended by section 604, shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date, except that—

(i) the provisions of section 16(c)(1)(A), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date; and

(ii) the provisions of section 16(c)(3), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date.

(B) The amendments made by sections 601 and 602 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(C) Except as provided in subparagraph (D), the amendments made to section 14 of the Food Stamp Act of 1977 by section 603 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(D)(i) The provisions of sections 13, 14, and 16 of the Food Stamp Act of 1977 that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 shall remain in effect for claims arising with respect to such period or periods.

(ii) The provisions of sections 14 and 16(c) of the Food Stamp Act of 1977 that relate to enhanced administrative funding for State agencies and that were in effect for any quality control review period or periods through fiscal year 1988 shall remain in effect for such funding with respect to such period or periods.

(c) SEQUESTRATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if a final order is issued for fiscal year 1989 under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the amount made available to carry out the food stamp program under section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) shall be reduced by an amount equal to \$110,000,000 multiplied by the amount of the percentage reduction for domestic programs required under such order. The reduction required by the preceding sentence shall be achieved

by reducing the amount of the adjustment to the cost of the thrifty food plan for fiscal year 1989 under section 3(o)(9) of the Food Stamp Act of 1977 (as added by section 120 of this Act).

(2) EFFECTIVE DATES IF SEQUESTRATION OCCURS.—Notwithstanding subsections (a) and (b), if a final order is issued under section 252(b) of the Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)) for fiscal year 1989 to make reductions and sequestrations specified in the report required under section 251(a)(3)(A) of such Act, sections 111, 201, 204, 310, 311, 321, 322, 323, 341, 342, 350, 351, 352, 402, 403, 404, 502, 504, and 505 shall become effective and be implemented on October 1, 1989.

Approved September 19, 1988.

LEGISLATIVE HISTORY—S. 2560 (H.R. 4060):

HOUSE REPORTS: No. 100-828, Pt. 1, accompanying H.R. 4060 (Comm. on Agriculture).

SENATE REPORTS: No. 100-397 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):

July 26, considered and passed Senate.

Aug. 8, H.R. 4060 considered and passed House.

Aug. 11, S. 2560 considered and passed House, amended. Senate concurred in House amendment.

Public Law 100-436
100th Congress

An Act

Sept. 20, 1988

[H.R. 4783]

Departments of
Labor, Health
and Human
Services, and
Education, and
Related
Agencies
Appropriations
Act, 1989.
Department of
Labor
Appropriations
Act, 1989.

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, \$71,638,000 together with not to exceed \$48,906,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, \$3,709,800,000, plus reimbursements, to be available for obligation for the period July 1, 1989, through June 30, 1990, of which \$59,713,000 shall be for carrying out section 401, \$69,372,000 shall be for carrying out section 402, \$9,633,000 shall be for carrying out section 441, \$2,000,000 shall be for the National Commission for Employment Policy, \$4,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and \$6,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act and \$36,000,000 shall be used to continue acquisition, rehabilitation, and construction of six new Job Corps centers; and, in addition, \$9,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, of which \$1,900,000 shall be for carrying out section 738 of the Act: *Provided*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, \$63,916,000, to be available for obligation for the period July 1, 1989 through June 30, 1992.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, \$47,870,000, in accordance with section 1424 of H.R. 4848 as passed the Senate on August 3, 1988.

Of the funds provided under this heading in the Department of Labor Appropriations Act, 1988, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, not to exceed \$30,000,000, may be expended as necessary, for center operations to maintain existing Job Corps centers and current enrollment levels. Such funds for center operations shall be available for obligation for the period July 1, 1988 through June 30, 1989. Such transfer shall in no way reduce the obligation of the Department of Labor to comply with the provisions of Public Law 100-202 for the rehabilitation and relocation of existing centers and the expeditious obligation of funds for the planning and construction of new centers.

The Congress recognizes the need to prepare the Nation's workforce for the more complex work environment of the United States post-industrial economy. The Congress is concerned with the findings of the Office of Technology Assessment that 25 million workers will have to upgrade their job skills by the end of this century. Accordingly, the Congress directs the Secretary to give priority to funding pilots and demonstrations and research, development, and evaluation programs that will address this urgent National priority.

Science and
technology.
Research and
development.
Employment
and
unemployment.

Further, in recognition that upgrading the skills of 25,000,000 workers cannot be achieved with current methods of teaching, the Congress directs the Secretary to fund from the available National activities program funds research and development projects using interactive laser-videodisc technology course materials that are specifically designed to upgrade "workplace literacy".

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$271,440,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$76,560,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), \$134,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided*, That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE
OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, \$22,833,000, together with not to exceed \$2,479,714,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1989, and of which \$21,733,000 together with not to exceed \$751,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1989, through June 30, 1990, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which \$157,479,000 (including not to exceed \$3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1989.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1990; \$124,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, \$1,059,000, of which \$5,000,000 for a pension plan data base shall remain available until September 30, 1990.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1989, of such Corporation: *Provided*, That not to exceed \$41,232,000 shall be available for administrative expenses of the Corporation: *Provided further*, That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes of this Act, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$4,489,000 together with \$526,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$55,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided*, That in addition there

shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1989.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, \$690,757,000, of which \$633,435,000 shall be available until September 30, 1990, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which \$30,210,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and \$26,597,000 for transfer to Departmental Management, Salaries and Expenses, and \$515,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$247,517,000, including not to exceed \$43,000,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or

administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further*, That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of

1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further*, That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

30 USC 962.

For necessary expenses for the Mine Safety and Health Administration, \$164,597,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$190,397,000, of which \$2,829,000 shall be for expenses of revising the Standard Industrial Classification, together with not to exceed \$46,323,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided*, That \$3,550,000 shall remain available until September 30, 1990.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including \$2,468,000 for the President's

Committee on Employment of the Handicapped, \$117,839,000, together with not to exceed \$285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed \$159,406,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-08 and 2021-26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, \$39,997,000, together with not to exceed \$5,701,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to July 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1989".

Department of
Health and
Human Services
Appropriations
Act, 1989.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1110 of the Social Security Act, and title IV of the Health Care Quality Improvement Act of 1986, as amended, \$1,632,584,000, of which not to exceed \$900,000, to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which \$500,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act and of which \$4,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients and of which \$20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers: *Provided*, That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further*, That not to exceed \$10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: *Provided further*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further*, That during fiscal year 1989, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed \$500,000.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, \$21,600,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$993,830,000, of which \$200,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided*, That training of private persons shall be made subject to reimbursement or advances from this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading shall be available for payment of the costs of medical care, medical expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That collections from user fees, may be credited to this appropriation: *Provided further*, That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to \$2,486,000 shall be available from amounts available under section 113 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey: *Provided further*, That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further*, That the office building at the Centers for Disease Control (CDC) at the Clifton Road site in Atlanta, Georgia and the laboratory facility in Mableton, Georgia, referred to in the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH AND TRAINING APPROPRIATION appearing in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which

shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH, AND TRAINING (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B).

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$1,593,536,000; of which at least \$75,000,000 shall be available only for cancer prevention and control and \$2,500,000, to remain available until expended, shall be available only for the Frederick Cancer Research Facility.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$1,059,303,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, \$132,578,000.

SEC. 200. None of the funds contained in this Act shall be used to compel any action in violation of section 401 (b) and (c) of Public Law 93-45.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, \$567,158,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, \$573,978,000 of which up to \$96,100,000 as the Secretary may determine to be appropriate, shall be transferred to the National Institute on Deafness and Other Communication Disorders upon being enacted into law.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$754,084,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$690,653,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$431,388,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$234,218,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$226,168,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$225,578,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, \$161,931,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$362,987,000, of which \$5,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$29,500,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, \$16,074,000, of which \$1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$74,626,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$73,078,000 including purchase of not to exceed five passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, \$39,000,000, to remain available until expended.

AIDS.

Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and

(2) in addition, with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, \$1,581,691,000 of which \$4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), of which \$200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, \$24,000,000 which shall be available in fiscal year 1989 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided*, That any amounts

determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1989 and thereafter, the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

24 USC 170a.

24 USC 168b.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out title III, XVII, and XX of the Public Health Service Act, \$70,167,000, together with not to exceed \$1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and \$5,950,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which \$3,868,000 will come from the Federal Hospital Insurance Trust Fund and \$2,082,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That in addition to amounts provided herein, up to \$10,155,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

VACCINE INJURY COMPENSATION TRUST FUND

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203, and from such trust fund such sums as may be necessary, not to exceed \$80,000,000, for compensation of claims adjudicated by the United States Claims Court arising from liability related to the administration of vaccines before October 1, 1988.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, \$26,236,000,000 to remain available until expended.

For making, after May 31, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1989 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1988 and before October 1, 1989, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1990, \$9,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, \$31,227,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, \$94,417,000, together with not to exceed \$1,825,219,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds or any other trust fund which may be established by law for catastrophic coverage under the Medicare program: *Provided*, That \$100,000,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates of this Act, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That all funds derived in accordance with 31 U.S.C. 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, \$93,631,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, \$628,581,000, to remain available until expended: *Provided*, That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1990, \$211,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$9,473,953,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1990, \$2,936,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than \$3,795,661,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided*, That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further*, That \$97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in

the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further*, That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further*, That not to exceed \$170,000,000 shall be available for automatic data processing and telecommunication activities.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), \$8,204,337,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1990, \$2,700,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,400,000,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), \$387,000,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, \$92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and section 408 of Public Law 99-425, and the Stewart B. McKinney Homeless Assistance Act, \$382,185,000 of which \$20,500,000 shall be for carrying out section 681(a)(2)(A), \$4,062,000 shall be for carrying out section 681(a)(2)(D), \$2,984,000 shall be for carrying out section 681(a)(2)(E), \$6,750,000 shall be for carrying out section 681(a)(2)(F), \$239,000 shall be for carrying out section 681(a)(3), \$3,555,000 shall be for carrying out section 408 of Public Law 99-425 and \$2,447,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, \$82,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, \$2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-73, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 100-294 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, \$2,574,808,000, of which \$12,000,000 shall be made available to carry out the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.): *Provided*, That appropriations to carry out the Comprehensive Child Development Program under chapter 8, subchapter E of the Omnibus Budget Reconciliation Act of 1981, shall be available notwithstanding section 670T(b) of that Act.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, \$1,119,907,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans \$68,160,000, together with not to exceed \$7,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General \$46,430,000, together with not to exceed \$40,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$16,173,000, together with not to exceed \$4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$7,946,000. *Provided*, That not less than \$3,000,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director," may be used to provide forward funding of multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health

scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18; not to exceed \$9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

Abortion.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed \$10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed \$2,000 for each fiscal year for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1989, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided*, That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the services: *Provided further*, That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to

42 USC 210 note.

the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

Contracts.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Government organization and employees.
Children and youth.
AIDS.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

AIDS.

SEC. 213. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

42 USC 210 note.

SEC. 214. Funds made available for fiscal year 1989 and hereafter to the National Institutes of Health shall be available for payment of nurses and allied health professionals using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73.

SEC. 215. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of \$6,765,000 is to be applied to all appropriations as a result of improved procurement practices.

Public buildings and grounds.

SEC. 216. NIH Building Numbered 31 is hereby named the Claude Denson Pepper Building.

SEC. 217. Funds appropriated by this Act may be used to pay physicians' comparability allowances as authorized under 5 U.S.C. 5948.

Wildlife.

SEC. 218. (a)(1) In enacting this section Congress hereby—

(A) recognizes the national and international legal protection granted chimpanzees under the Endangered Species Act and the Convention on International Trade of Endangered Species, to which the United States is a signatory, and also the World Health Organization's Policy Statement on Use of Primates for Biomedical Purposes, all of which acknowledges the threatened or endangered status of the chimpanzee; and

(B) acknowledges that substantial public monies are already being expended on a National Chimpanzee Breeding and Research Program in the United States.

(2) No funds appropriated under this Act or any other provisions of law shall be used by the National Institutes of Health, or any

other Federal agency, or recipient of Federal funds and be expended on any project that entails the capture or procurement of chimpanzees obtained from the wild.

(3) For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 219. During the 12-month period beginning October 1, 1988, none of the funds made available under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1989, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1989".

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

Department of
Education
Appropriations
Act, 1989.

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, \$4,625,755,000, of which a total of \$8,000,000 for purposes of sections 1437 and 1463 and \$4,000,000 for subpart 3 of part F, shall become available on October 1, 1988 and remain available until September 30, 1989, and may be expended by the Secretary at any time during that period; and the remaining \$4,613,755,000 shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided*, That of these remaining funds, \$3,900,000,000 shall be available for the purposes of section 1005, \$175,000,000 shall be available for the purposes of section 1006, \$20,000,000 shall be available for the purposes of section 1017(d), \$15,000,000 shall be available for the purposes of part B, \$275,000,000 shall be available for the purposes of subpart 1 of part D, \$150,000,000 shall be available for the purposes of subpart 2 of part D, \$32,000,000 shall be available for the purposes of subpart 3 of part D, \$41,000,000 shall be available for the purposes of section 1404, and \$5,755,000 shall be available for the purposes of section 1405: *Provided further*, That no State shall receive less than \$340,000 under section 1006 from the amounts made available under this appropriation for section 1006.

For carrying out section 418A of the Higher Education Act, \$9,000,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), \$717,000,000, of which \$15,000,000 shall be for entitlements under section 2 of said Act, and \$702,000,000 shall be for entitlements under section 3 of said Act of which \$565,000,000 shall be for entitlements under section 3(a) of said Act: *Provided*, That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received, through

administrative offset, 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), \$25,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which \$10,000,000 shall be for awards under section 10 of said Act, \$12,000,000 shall be for awards under sections 14(a) and 14(b) of said Act, and \$3,000,000 shall be for awards under sections 5 and 14(c) of said Act.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, part A of title II, title III, part A, part B, subpart 1 and subpart 2 of part C, and part E of title IV, sections 4601, 4604, and 4605, title V, and parts A and C of title VI of the Elementary and Secondary Education Act of 1965, as amended; section 722 of the Stewart B. McKinney Homeless Assistance Act; section 403 of the Civil Rights Act of 1964; subpart 2 of part C and subpart 2 of part D of title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; title IX of the Education for Economic Security Act; and the Follow Through Act, \$1,123,075,000: *Provided*, That of the amounts provided, \$497,700,000 shall be for chapter 2 of title I of the Elementary and Secondary Education Act, of which \$468,600,000 for part A shall become available on July 1, 1989 and remain available until September 30, 1990 and \$29,100,000 for part B including \$1,000,000 for national school volunteer programs shall become available on October 1, 1988: *Provided further*, That \$130,000,000 for grants to States and Outlying Areas under part A of title II, \$8,000,000 for part B, \$3,000,000 for subpart 1 and \$500,000 for subpart 2 of part C of title IV, and \$207,000,000 for grants to States and Outlying Areas under title V of the Elementary and Secondary Education Act, \$4,358,000 for subpart 2 of part C of title V of the Higher Education Act, and \$4,893,000 for section 722 of the Stewart B. McKinney Homeless Assistance Act shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided further*, That, of the amounts provided, \$115,000,000 shall be for title III, \$9,000,000 shall be for section 2012 and \$1,500,000 shall be for section 6201(d) of the Elementary and Secondary Education Act.

Unobligated balances of funds appropriated for fiscal years 1985 and 1986 for title VI of the Education for Economic Security Act shall be available until September 30, 1989 for carrying out activities authorized by part F of title IV of which not less than \$1,000,000 shall be for activities authorized by section 4603 of the Elementary and Secondary Education Act.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act and part B of title III of the Refugee Act of 1980, \$199,791,000, of which \$112,106,000 shall be for part A, \$10,903,000 shall be for part B, \$30,782,000 shall be for part C of title VII, except that no funds shall be used for activities authorized by section 7043 until an interim report is submitted to the House and Senate Appropriations Committees which the Secretary shall submit no later than eight

months following the enactment of this appropriations Act in partial compliance with section 6212 of Public Law 100-297 and such amounts are released under further statutory Act of Congress, and \$0,000,000 shall be for part D of title IV of the Elementary and Secondary Education Act.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, \$1,990,321,000 of which \$5,213,000 shall be for carrying out title I of the Act, as amended, and of which \$1,493,369,000 for section 611, \$50,000,000 for section 619, and \$70,679,000 for section 685 shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided*, That up to \$479,000 may be used for section 621(d) of said Act.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, \$1,667,570,000, of which \$1,450,000,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, \$17,200,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), \$750,000 shall be for carrying out section 202(j)(1), and \$4,900,000 shall be for the Helen Keller National Center.

Of the funds provided under the heading "Rehabilitation Services and Handicapped Research" in fiscal year 1987 in Public Law 99-500 and Public Law 99-591, for carrying out the Rehabilitation Act of 1973, which are unobligated, the sum of \$500,000 is appropriated for an allotment under section 100(b)(1) of the Rehabilitation Act of 1973 to Montana for obligations incurred by Montana during fiscal year 1987.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act including section 372 of said Act, and section 702 of the Stewart B. McKinney Homeless Assistance Act, \$1,086,504,000 which shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided*, That \$26,321,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which \$7,050,000 shall be for part A, including \$5,744,000 for section 404, \$14,556,000 shall be for section 411 and \$215,000 shall be for section 415 of part B, and \$4,500,000 shall be for part C of said title: *Provided further*, That \$8,000,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further*, That \$9,000,000 shall be made available to carry out title III-A and \$33,520,000 shall be made available for title III-B of said Vocational Education Act: *Provided further*, That \$3,817,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further*, That \$2,000,000 provided herein for part D of the Adult Education Act shall be only for section 383 of said Act.

STUDENT FINANCIAL ASSISTANCE

20 USC 1070a
note.

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, \$5,884,671,000, which shall remain available until September 30, 1990: *Provided*, That the maximum Pell grant that a student may receive in the 1989-90 award year shall be \$2,300: *Provided further*, That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further*, That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 484 of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), in order for a student to be eligible to receive grant, loan, or work assistance under title IV of that Act, that student shall be required to have earned a high school diploma or its recognized equivalent if (1) that student is enrolled or accepted for enrollment in a course of study of less than one year in preparation for an occupation for which the student must be certified by an agency other than the eligible institution or institution of higher education in order to begin practice or service, and (2) a high school diploma or its recognized equivalent is a requirement for that certification.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, \$3,174,400,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, \$176,697,000, of which up to \$12,850,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided*, That \$85,447,000 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities, of which \$4,500,000 is available until expended for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina, when an authorization for such Center is enacted into law: *Provided further*, That up to \$7,300,000 of funds appropriated for part A of title III of said Act shall be available for non-competing continuation awards made to four-year institutions in fiscal year 1988.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII; part D of title VII; parts A, B, C, D, E, and F of title IX; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section

(6) of the Mutual Educational and Cultural Exchange Act of 1988, \$388,257,000, of which \$22,744,000 for part D of title VII shall be available until expended: *Provided*, That \$8,300,000 provided for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That \$1,500,000, of the amount provided herein for part 4 of part A of title IV of the Higher Education Act shall be made available to Ronald E. McNair Post-Baccalaureate Achievement Program: *Provided further*, That the Secretary shall, in carrying out section 802 of the Higher Education Act of 1965, give special consideration to applications from private urban institutions of higher education, or combinations thereof, with minority student enrollment exceeding 66 percent of total student enrollment, and with the intent to develop from a traditional academic curriculum to a university cooperative education program applicable to all undergraduate students in major fields of study: *Provided further*, That an additional amount of \$5,750,000 shall be made available, of which \$5,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to be made available on July 1, 1989, and remain available until September 30, 1990, and \$750,000 shall be made available for section 802 of the Omnibus Trade and Competitiveness Act of 1988, relating to international business education centers.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided*, That during fiscal year 1989, gross commitment for the principal amount of direct loans shall be \$30,000,000. Payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, shall be made available until expended.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the National Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the next fiscal year. For the fiscal year 1989, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1070d-39(a)).

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program previously carried out under title IV of the Housing Act of 1965, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan proceeds and other resources available to this account. Any

unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out section 405 of the General Education Provisions Act, as amended, \$47,651,000: *Provided*, That \$5,200,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

For necessary expenses to carry out section 406 of the General Education Provisions Act, as amended by Public Law 100-297, \$22,000,000, and an additional \$9,500,000 shall be for the National Assessment of Educational Progress.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, \$138,866,000: *Provided*, That \$22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended: *Provided further*, That the State of Illinois is relieved of all liability to repay the United States the sum of \$14,547,769 representing payments made to Illinois under the Library Services and Construction Act for fiscal years 1977 through 1986 which were disallowed because of a pioneering nature of the program for libraries in that State and, in the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this proviso.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, \$5,400,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$33,731,000, of which \$200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided*, That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and

the Deaf, \$66,800,000, of which \$1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$180,647,000: *Provided*, That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed \$500,000 together with \$1,500,000 provided herein shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, \$258,600,000, of which \$500,000 shall be available until expended for carrying out the National Summit Conference on Education Act of 1984, \$5,200,000 shall be available only for additional staff and related expenses necessary to increase the number of on-site student aid program reviews, and of which \$5,600,000 shall be available for necessary expenses of the National Student Loan Data System upon enactment of amendments to section 485B of the Higher Education Act which will decrease student loan and default costs by more than the cost of the system on an annual basis.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$41,341,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$18,400,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

Schools and
colleges.
Busing.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Schools and
colleges.
Busing.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

School prayer.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1989".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$170,465,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal

year 1991, \$302,500,000 of which \$57,500,000 shall be available for section 396(k)(10) of said Act: *Provided*, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further*, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further*, That funds provided herein for fiscal year 1991 shall be available pending authorization.

Discrimination,
prohibition.

COMMISSION ON RAILROAD RETIREMENT REFORM

For necessary expenses of the Commission on Railroad Retirement Reform established by section 9033 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), \$1,000,000, which shall remain available until expended.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), \$26,127,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$4,079,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, \$800,000, which shall remain available until expended.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, \$500,000, which shall remain available until expended. Notwith-

42 USC 285g
note.

standing any other provision of law, the Commission shall be composed of sixteen members, including seven at large members. Furthermore, the Commission has the power to accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, and shall continue operating, notwithstanding sections 208 and 209 of Public Law 99-660.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), \$750,000.

NATIONAL COMMISSION ON MIGRANT EDUCATION

For necessary expenses of the National Commission on Migrant Education established by section 1439 of Public Law 100-297, \$2,000,000 to become available on April 1, 1989 and which shall remain available until expended.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education established by section 1321 of the Higher Education Amendments of 1986 (Public Law 99-498), \$800,000, which shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, \$1,174,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$138,647,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD**SALARIES AND EXPENSES**

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$6,551,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**SALARIES AND EXPENSES**

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$5,916,000.

PHYSICIAN PAYMENT REVIEW COMMISSION**SALARIES AND EXPENSES**

For expenses necessary to carry out section 1845(a) of the Social Security Act, \$3,059,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION**SALARIES AND EXPENSES**

For expenses necessary to carry out section 601 of Public Law 98-21, \$3,664,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD**DUAL BENEFITS PAYMENTS ACCOUNT**

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$355,000,000, which shall include amounts becoming available in fiscal year 1989 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided*, That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for un-negotiated checks, \$3,100,000, to remain available through September 30, 1990, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, \$60,350,000, to be derived from the railroad retirement accounts: *Provided*, That \$200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of

such workloads within the remainder of the existing limitation has been achieved: *Provided further*, That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than \$13,950,000 shall be apportioned for fiscal year 1989 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than \$3,100,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, \$37,700,000: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, \$15,000,000, to remain available until expended: *Provided further*, That funds provided under this paragraph as well as \$15,000,000 provided for Capital Outlay in Public Law 100-202 shall, immediately upon enactment of this Act, be made available for the construction of a 200-bed Intermediate Care Facility on the grounds of the LaGarde building.

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, \$1,046,000, which shall remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

or necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$7,000,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. The expenditure of any appropriation under this Act for consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.
Records.
Public
information.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to an obligation for services by contract, unless such executive agency is awarded and entered into such contract in full compliance with the Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to acquire or prevent the availability of certain curricula, or to prevent faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances be used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative

relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed \$7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

AIDS.

SEC. 512. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

SEC. 513. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 514. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of *Ixta v. Rinaldi* (Case No. 3 Civil C 002805).

SEC. 515. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional serv-

special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized technical services; and public relations; in excess of an amount equal to 5 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for an increase in rates of pay in such department, agency, or instrumentality made under this Act.

The limitations contained in subsection (a) shall not apply to the Offices of Inspector General of the departments, agencies, and instrumentalities of the United States Government receiving appropriated funds under this Act. Neither shall the limitations in subsection (a) apply to routine, on-going activities which departments, agencies and instrumentalities provide through contract as part of their regular mission.

SEC. 516. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 1.2 per centum.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989".

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 4783:

HOUSE REPORTS: No. 100-689 (Comm. on Appropriations) and No. 100-880 (Comm. of Conference).

SENATE REPORTS: No. 100-399 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 15, considered and passed House.

July 25-27, considered and passed Senate, amended.

Sept. 9, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and insisted on disagreement to another Senate amendment.

Sept. 12, Senate agreed to conference report; concurred in certain House amendments.

Sept. 13, Senate receded from its amendment.

Public Law 100-437
100th Congress

An Act

to award a congressional medal to Mrs. Jesse Owens, and for other purposes.

Sept. 20, 1988

[H.R. 1270]

As it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL GOLD MEDAL.

31 USC 5111

note.

(a) **PRESENTATION AUTHORIZED.**—The President is authorized to present, on behalf of the Congress, to Mrs. Jesse Owens a gold medal of appropriate design, in recognition of the late Jesse Owens' athletic achievements and humanitarian contributions to public service, civil rights, and international goodwill.

(b) **DESIGN AND STRIKING.**—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) **AUTHORIZATION OF APPROPRIATION.**—There are authorized to be appropriated not to exceed \$20,000 to carry out this section.

C. 2. DUPLICATE MEDALS.

31 USC 5111

note.

(a) **STRIKING AND SALE.**—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) **REIMBURSEMENT OF APPROPRIATION.**—The appropriation used to carry out section 1 shall be reimbursed out of the proceeds of sales under subsection (a).

C. 3. NATIONAL MEDALS.

31 USC 5111

note.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

C. 4. YOUNG ASTRONAUT PROGRAM MEDAL ACT AMENDMENTS.

Section 2 of the Young Astronaut Program Medal Act (31 U.S.C. 5111 note) is amended—

(1) in subsection (a), by inserting “, including medals in uncirculated or proof condition,” after “750,000 medals”; and

(2) in subsection (b), by striking out “December 31, 1988” and inserting in lieu thereof “December 31, 1989”.

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 1270:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.

Sept. 8, considered and passed Senate.

Public Law 100-438
100th Congress

An Act

Sept. 20, 1988

[H.R. 5143]

To waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

District of
Columbia
Revenue Bond
Act of 1988.*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1988".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF REVENUE BONDS.

(a) **WAIVER.**—Section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to certain acts of the District of Columbia described in subsection (c) authorizing the issuance, sale, and delivery of revenue bonds.

(b) **EFFECTIVE DATE OF ACTS.**—Notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision in any District of Columbia act described in subsection (c), the District of Columbia acts described in paragraphs (1), (2), and (3) of subsection (c) shall take effect on the date of the enactment of this Act.

(c) **CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING THE ISSUANCE OF REVENUE BONDS.**—The District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to in subsections (a) and (b) are as follows:

(1) The St. Johns Child Development Center Revenue Bond Act of 1988, District of Columbia act 7-205, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(2) The Columbia Hospital for Women Revenue Bond Act of 1988, District of Columbia act 7-208, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(3) The Providence Hospital Revenue Bond Act of 1988, District of Columbia act 7-206, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(4) The District of Columbia Hospital Association Revenue Bond Act of 1988 (District of Columbia bill 7-553, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed \$200,000,000.

(5) The Georgetown University Revenue Bond Act of 1988 (District of Columbia bill 7-551, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed \$237,000,000.

(6) The Children's Hospital National Medical Center Bond Act of 1988 (District of Columbia bill 7-552, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed \$55,000,000.

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 5143:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 11, considered and passed House.

Sept. 8, considered and passed Senate.

Public Law 100-439
100th Congress

An Act

Sept. 22, 1988
[H.R. 2701]

To amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRACT DURATION.

Section 315(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375(a)) is amended by striking the last sentence of paragraph (1) and by striking paragraph (3).

SEC. 2. OFFERS; RIGHT OF FIRST REFUSAL.

(a) AMENDMENT.—Section 315(b) of such Act (15 U.S.C. 3375(b)) is repealed, and subsection (c) of such section is redesignated as subsection (b).

(b) CONFORMING AMENDMENTS.—(1) The title of such section 315 is amended by striking “**RIGHT OF FIRST REFUSAL;**”.

(2) The item relating to section 315 in the table of contents in section 1(b) of such Act is amended by striking “right of first refusal;”.

Approved September 22, 1988.

LEGISLATIVE HISTORY—H.R. 2701:

HOUSE REPORTS: No. 100-682 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-485 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 13, considered and passed House.

Sept. 8, considered and passed Senate.

Public Law 100-440
100th Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Sept. 22, 1988
[H.R. 4775]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, namely:

Treasury, Postal
Service and
General
Government
Appropriations
Act, 1989.

TITLE I

OFFICE OF THE SECRETARY

Treasury
Department
Appropriations
Act, 1989.

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed \$22,000 for official reception and representation expenses; not to exceed \$200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed \$573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; \$59,618,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed \$2,000,000 for official travel expenses; and not to exceed \$73,000 for official reception and representation expenses; \$22,000,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and

participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed \$5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided*, That the Center is authorized the acceptance of gifts: *Provided further*, That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; \$34,664,000: *Provided further*, That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, \$20,000,000 to remain available until expended: *Provided*, That of this amount, \$7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further*, That \$13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further*, That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, \$277,230,000, of which not to exceed \$13,237,000, shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such

as may be determined by the Director; not to exceed \$5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; \$234,000,000, of which \$15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1989, and of which not to exceed \$1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed \$300,000 shall be available for research and development of an explosive identification and detection device: *Provided further*, That funds made available under this shall be used to maintain a base level of 3,701 full-time equivalent positions for fiscal year 1989, of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program: *Provided further*, That not to exceed \$2,500,000 shall be available until expended for the purchase of a mainframe processor and associated hardware and software for official occupational and excise tax processing, and \$300,000 shall be available until expended for the development and implementation of a secure communications and intelligence facility.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

for necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use in commercial operations; hire of passenger motor vehicles; not to exceed \$110,000 for official reception and representation expenses, including \$100,000 to be available only for the Customs Cooperation Council meeting; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; \$25,411,000; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed \$150,000 shall be available for payment for rental of space in connection with preclearance operations, and not to exceed \$100,000, to remain available until expended, for research: *Provided*, That uniforms may be purchased without regard to the current purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of \$25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in

individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1989: *Provided further*, That the United States Customs Service shall hire and maintain an average of not less than 16,739 full-time equivalent positions in fiscal year 1989: *Provided further*, That all of the additional full-time equivalent positions made available by this Act for the United States Customs Service over the full-time equivalent positions level of 16,099 contained in the President's budget for fiscal year 1989 shall be allocated only for commercial operations of the Customs Service in fiscal year 1989: *Provided further*, That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1989: *Provided further*, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1989: *Provided further*, That not less than \$300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; \$142,262,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1989.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed \$10,000,000, as authorized by Public Law 98-573, to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed \$1,588,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; \$47,000,000, of which \$665,000 shall remain available until expended for research and development projects.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; \$219,430,000, of which not to exceed \$700,000 shall be available for expenses of the National Economic Commission.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) \$960,000, to remain available until expended.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; \$87,165,000, of which not to exceed \$25,000 for official reception and representation expenses and of which not to exceed \$500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; \$1,740,353,000, of which not to exceed \$80,000,000 shall remain available until expended for systems modernization initiatives: *Provided*, That, of the total amount appropriated under this heading, \$22,900,000 shall be available for the Statistics of Income Program in fiscal year 1989.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; \$1,932,441,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided*, That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further*, That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at \$2,800,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full \$2,800,000 can be devoted to program requirements; \$1,434,921,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or \$15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at

the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed \$12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; \$357,500,000, of which \$2,500,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which \$7,126,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1989".

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; \$436,417,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act

Postal Service
Appropriation
Act, 1989.

39 USC 403 note.

shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1989.

SENSE OF SENATE PROVISION

Reports.

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the United States Postal Service to implement Phase II of the contract between the United States Postal Service and Perot Systems until forty-five days after the General Accounting Office reports to Congress on the Perot Systems sole source contract and that the General Accounting Office report to Congress within forty-five days of the adoption of this amendment.

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISION

Public buildings
and grounds.
Mississippi.

SECTION 1. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1989".

Executive Office
Appropriations
Act, 1989.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of \$50,000 per annum as authorized by 3 U.S.C. 102; \$250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; \$16,850,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed \$3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed \$100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed \$20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; \$27,950,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and repairs, of the Executive Residence at the White House and official entertainment expenses of the President; \$5,698,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and repairs, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed \$75,000 for official entertainment expenses of the Vice President, to be accounted for by the Vice President on his certificate; \$258,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned duties, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; \$2,199,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); \$2,787,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; \$3,000,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; \$225,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; \$5,100,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; \$39,640,000, of which not to exceed \$1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and of which not to exceed \$4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further*, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with

tion 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; \$2,353,000.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; \$1,000,000.

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, \$1,000,000, to remain available until expended.

This title may be cited as the "Executive Office Appropriations Act, 1989".

TITLE IV—INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Independent
Agencies
Appropriations
Act, 1989.

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed \$1,000 for official reception and representation expenses; \$1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); \$1,040,000, and additional amounts not to exceed \$200,000, collected from the sale of publications shall be appropriated to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; \$205,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and

Reports.

Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, \$862,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; \$15,433,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of \$3,024,217,000, of which (1) not to exceed \$119,820,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Connecticut:

Bridgeport, Federal Building, Courthouse Annex,
\$4,138,000

Hartford, Federal Building, Courthouse Annex,
\$6,612,000

Florida:

Lakeland, Federal Building, \$14,000,000

Illinois:

Champaign-Urbana, Federal Building, Courthouse,
\$8,316,000

Louisiana:

Baton Rouge, Federal Building, Courthouse, to be constructed on a site donated by the City of Baton Rouge,
\$16,758,000

Michigan:

Detroit, Ambassador Bridge Cargo Inspection Facility,
\$10,197,000

Minnesota:

International Falls, Border Station, Site, \$260,000

New Jersey:

Camden, U.S. Post Office, Courthouse Annex, \$18,728,000
Newark, Martin Luther King, Jr., Federal Building, Site and Design (parking facility), \$250,000
Paterson, Federal Building, \$6,552,000
Trenton, Federal Building, Courthouse Annex,
\$25,939,000

New Mexico:

Albuquerque, Grant to the University of New Mexico, Zimmerman Library, Repair and Extension, \$5,000,000

South Carolina:

Columbia, Federal Building and Courthouse Claim,
\$100,000

Virgin Islands:

St. Croix, Federal Building, Courthouse, \$8,827,000

Construction Projects, less than \$500,000, \$2,470,000

Other selected purchases including options to purchase,
\$500,000:

Provided, That each of the immediately foregoing limits of costs on construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than \$100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed \$2,865,000 which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum without advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Termination
date.

Repairs and Alterations:

Alaska:

Juneau, Federal Building, Post Office, Courthouse,
\$24,700,000

Alabama:

Montgomery, Federal Building, Courthouse, \$515,000

Arkansas:

Pine Bluff, Federal Building, Post Office, Courthouse,
\$2,084,000

California:

County of Los Angeles, for a grant for Senior Citizens
Health Center renovation, \$1,000,000

California State University at East Los Angeles for a
grant to establish a center, \$800,000

San Francisco, 450 Golden Gate Avenue, Federal Build-
ing, Courthouse, \$5,000,000

Santa Ana, Federal Building, \$1,406,000

San Diego, Federal Building, \$1,742,000

District of Columbia:

Mary Switzer Federal Building, \$502,000

Commerce Building, \$2,457,000

Interstate Commerce Building, \$526,000

Health and Human Services, \$1,395,000

U.S. Customs Building, \$754,000

Internal Revenue Service, \$2,179,000

Housing and Urban Development, \$1,221,000

Hubert H. Humphrey Federal Building, \$606,000

Ariel Rios Federal Building, New Post Office, \$29,000,000

GSA Headquarters, \$11,000,000

James V. Forrestal Building, \$19,970,000

Florida:

Jacksonville, Federal Building, \$6,889,000

Miami, Federal Building, \$1,415,000

Hawaii:

Honolulu, Kalanianoʻle Federal Building, \$5,680,000

Kentucky:

Louisville, Post Office, Courthouse, Customhouse,
\$9,435,000

Louisiana:

New Orleans, Boggs Federal Building, Courthouse,
\$10,245,000

New Orleans, Customhouse, \$1,672,000

Maryland:

Avondale, Interior (Bureau of Mines), \$6,500,000

Woodlawn, SSA Complex, \$7,030,000

Baltimore, Garmatz Federal Building, Courthouse,
\$800,000

Suitland, Federal Building, #3, \$1,926,000

Suitland, Federal Building, #4, \$817,000

Baltimore, Fallon Federal Building, \$6,901,000

Massachusetts:

Boston, John F. Kennedy Federal Building, \$10,000,000

Boston, McCormack Federal Building, Courthouse,
\$3,000,000

Missouri:

Overland, Federal Archives and Records Center,
\$3,059,000

Mississippi:

Jackson, Eastland Post Office, Courthouse, \$2,143,000

New Jersey:

Newark, Rodino Federal Building, \$5,201,000

Trenton, Federal Building, Courthouse, \$1,417,000

New Mexico:

Albuquerque, Chavez Federal Building, Courthouse,
\$3,207,000
Albuquerque, Federal Building, \$1,967,000
New York:
Brooklyn, Cellar Federal Building, \$16,000,000
Rochester, Keating Federal Building, \$6,800,000
New York, United States Mission to the United Nations,
\$4,300,000
Ohio:
Cleveland, Celebrezze Federal Building, \$5,836,000
Pennsylvania:
Philadelphia, Green Federal Building, \$1,200,000
Philadelphia, SSA Computer Center, \$950,000
North Carolina:
Charleston, Rivers Federal Building, \$1,275,000
Tennessee:
Memphis, Davis Federal Building, \$9,466,000
Texas:
Austin, Federal Building, \$3,241,000
Austin, Internal Revenue Service Center, \$3,282,000
Austin, Post Office, Courthouse, \$7,995,000
Houston, Casey Federal Building, Courthouse, \$8,008,000
Lubbock, Federal Building, Courthouse, \$3,674,000
Utah:
Salt Lake City, Post Office, Courthouse, \$2,543,000
Virginia:
McLean, Central Intelligence Agency, Headquarters,
\$2,336,000
McLean, Central Intelligence Agency Printing Plant,
\$746,000
Reston, J.W. Powell Federal Building, \$1,336,000
Arlington, Heating Plant, \$593,000
Richmond, Annex, \$3,287,000
Vermont:
Burlington, Federal Building Post Office, Courthouse,
\$4,100,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, \$7,586,000
Federal Improvements of United States-Mexico Border Facilities,
2000 as follows:
Arizona:
Douglas, AZ
New facility/R&A/Safety, \$820,700
Lukeville, AZ
R&A/Safety, \$229,100
Naco, AZ
New facility/R&A/Safety, \$320,900
Nogales, AZ
Grande Ave./Morley Gate, New Station/R&A/
Safety, \$2,420,900
Mariposa, R&A, \$746,800
Sasebe, AZ
New facility/R&A/Safety, \$355,300
San Luis, AZ
R&A/Safety, \$499,300
California:
Andrade, CA

New station/R&A/Safety, \$454,300
 Calexico, CA
 New station/R&A/Safety, \$4,830,900
 San Ysidro/Otay Mesa, CA
 New facility/Otay Mesa, \$721,700
 Safety/San Ysidro/Otay Mesa, \$2,673,900
 R&A/Signs/Security/Commercial lot improvements,
 \$4,956,200
 Tecate, CA
 New station/R&A, \$861,800
 New Mexico:
 Antelope Wells, NM
 Security/Housing, \$158,500
 Columbus, NM
 Security, \$236,300
 Santa Teresa, NM
 New station, \$1,668,000
 Texas:
 Amastad Dam, TX
 R&A, \$83,400
 Brownsville, TX
 Gateway Bridge, Security/R&A/Lane expansion/
 New Bridge, \$5,783,000
 B&M Bridge, Replace station, \$1,794,300
 Los Indios, Replace station, \$105,700
 Del Rio, TX
 Security/Lane expansion, \$597,700
 Eagle Pass, TX
 Security/R&A, \$2,251,800
 El Paso, TX
 Bridge of the Americas, Design/R&A/Import Lot
 Paving, \$1,700,300
 Paso del Norte, Extension/R&A, \$639,400
 Ysleta, Design/Construction, \$1,501,200
 Fabens, TX
 Site acquisition/Security, \$444,800
 Falcon Dam, TX
 R&A, \$172,400
 Hidalgo, TX
 Safety/Design/R&A, \$617,200
 Laredo, TX
 Juarez-Lincoln Bridge, Site/Design/R&A, \$1,668,000
 New bridge, \$278,000
 Convent Street, Design upgrade, \$1,473,400
 Presidio, TX
 Security/Housing, \$556,000
 Progresso, TX
 Security/R&A, \$222,400
 Roma, TX
 Safety, \$305,800

Minor Repairs and Alterations, \$200,000,000, of which up to
 \$2,000,000 shall be made available to fund a pilot project establish-
 ing safe areas-of-refuge from fire for the disabled in six existing
 Federal buildings in the United States: *Provided*, That by no later
 than July 30, 1989, the Administrator of General Services shall
 assess the level of unobligated balances, if any, in the Federal
 Buildings Fund and request reprogramming of such balances, not to

exceed \$10,000,000, to provide additional funding for United States-Mexico Border Facility projects: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed \$133,000,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed \$1,177,532,000 for rental of space; (5) not to exceed \$882,000,000 for real property operations; (6) not to exceed \$49,000,000 for program direction and centralized services; and (7) not to exceed \$130,000,000, of which \$2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which \$127,800,000 shall be available for design and construction services which shall remain available until expended: *Provided further*, That obligations of funds for lease, lease purchase, or installment purchase public buildings projects authorized in Public Law 100-202 for the General Services Administration at Oakland, California and San Francisco, California, and for the Environmental Protection Agency and Department of Transportation shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B): *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Memphis, Tennessee, Internal Revenue Service Center; Avondale, Maryland, Interior Department (Bureau of Mines); Baton Rouge, Louisiana, Federal Building/Courthouse; and Lakeland, Florida, Federal Building, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided*

Termination
date.

further, That revenues and collections and any other sums accruing to this Fund during fiscal year 1989 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of \$3,024,217,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; \$47,000,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; \$10,800,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, \$4,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or

any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property: *Provided further*, That notwithstanding any provision of this or any other Act, not more than \$1,500,000 of the appropriations made available under the heading "Real Property Relocation" by this Act or by Public Law 100-202, shall be available to pay for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii: *Provided further*, That upon relocation, such property shall be sold by the Administrator of General Services at not less than the estimated fair market value through a competitive public sale.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; \$122,774,000, of which \$800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided*, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; \$31,875,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; \$25,000,000: *Provided*, That not to exceed \$10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; \$1,431,000: *Provided*, That the Administrator of General Services shall transfer

to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), \$3,000,000: *Provided*, That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Act.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the fiscal year ending September 30, 1989, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated \$30,000,000 to the Fund, to remain available until expended, the amounts to be allocated for the following projects:

University of Texas at El Paso pursuant to 50 U.S.C. 98 a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries, \$3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, \$14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, \$3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, \$3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, \$7,000,000.

Public buildings
and grounds.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1989 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for

andatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

EC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.

EC. 6. The Administrator of General Services shall proceed with site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591).

EC. 7. Notwithstanding any provisions of this Act or any other law, in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland property at rates sufficient to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f).

EC. 8. (a) LEASE-PURCHASE AGREEMENT.—The Administrator of General Services shall acquire from the State of Tennessee or a political subdivision thereof by lease-purchase a building to house the Internal Revenue Service Center in Memphis, Tennessee, and any other Federal agencies as may be appropriate.

(b) LIMITATIONS.—

(1) SIZE.—The building to be acquired under subsection (a) may not exceed 600,000 gross square feet in size plus such additional space as may be necessary for parking.

(2) COST.—The total cost of the lease-purchase agreement under this section to the United States may not exceed \$36,000,000, plus reasonable interest thereon, as well as operating costs, if applicable.

(3) TERM.—The term of the lease-purchase agreement under this section may not exceed thirty years. The agreement shall provide that ownership of the building will vest in the United States on or before the end of such term.

(4) OBLIGATION OF FUNDS.—Obligations of funds under this section shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code.

(c) SALE OF LEASEHOLD INTEREST.—The Administrator of General Services shall sell any leasehold or other interest which the United States has in the building which is providing office space for the Internal Revenue Service Center in Memphis, Tennessee, and shall deposit the proceeds from such sale in the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949.

EC. 9. The General Services Administration is directed to contract under their lease-purchase authority, a 40,000 net square foot office building at the CDC campus in Chamblee, Georgia, designed with funds which Congress provided the Center for Disease Control for the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, and

40 USC 490d.

Pennsylvania.

Maryland.

Tennessee.
Contracts.

Contracts.
Georgia.

shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to the General Services Administration from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed thirty years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriation to the Centers for Disease Control—Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of research facilities) and such appropriations shall hereafter be available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1502 and 1341(a)(1)(B).

Employment
and
unemployment.
Government
organization and
employees.

SEC. 10. The Administrator of General Services is authorized and directed to hire up to and maintain an annual average of not less than one thousand full-time equivalent positions for Federal Protective Officers. This shall be accomplished by increasing existing staff levels at the end of fiscal year 1988 at a rate of not less than fifty positions per year until the full-time equivalency of one thousand is attained by not later than fiscal year 1992.

40 USC 490a-1.

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

Florida.

SEC. 12. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 124 South Tennessee Avenue in Lakeland, Florida, and to deposit such proceeds into the Federal Buildings Fund.

Arkansas.

SEC. 13. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplus, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplus, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is \$120,774,000 for fiscal year 1989.

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately twenty-four acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard.

Maryland.
National Guard.

SEC. 17. The Secretary of the Interior, within thirty days of enactment of this Act shall designate a consolidated agency of no less than four hundred people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than ninety days after the Administrator determines design and alteration of the facility is completed.

Maryland.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands.

Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplus, or disposal of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: *Provided*, That such land may be sold before that time if the General Services Administration enters into a mutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland.

Maryland.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, \$121,900,000, of which \$125,000 shall be made available directly to the Forbes Library, Northampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and of which \$4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which \$4,100,000 shall remain available until expended for continuation of construction at the John F. Kennedy Library in Boston, Massachusetts: *Provided*, That notwithstanding the provisions of 31 U.S.C. 1341(a)(1) or any other provisions of law, the Archivist of the United States is authorized, pursuant to 44 U.S.C. 2903, to enter into a contract for construction and related services for a new National Archives facility in Prince George's County, Maryland, on a site provided, without charge, to the United States by the University of Maryland or the State of Maryland, which site may be transferred to the United States by less than fee simple estate, but shall remain available to the United States so long as it shall be used as a National Archives facility. The contract shall provide, by lease or installment payments payable out of annual appropriations over a period not to exceed thirty years, for the payment of the purchase price and associated costs, which shall not exceed \$205,000,000 plus escalation to the midpoint of construc-

tion, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed \$2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; \$108,000,000, of which \$170,000 shall be for the salaries, administrative support and for other expenses of the Commission on Executive, Legislative and Judicial Salaries; not to exceed \$1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees; and not to exceed \$500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989; in addition to \$77,017,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs, of which \$7,000,000 shall be for costs incurred in implementing the record keeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1989, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed \$12,000.

**GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH
BENEFITS**

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, \$2,374,414,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be paid to the Civil Service Retirement and Disability Fund, \$358,668,000: *Provided*, That annuities authorized by the Act of July 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 33 USC 776.

MERIT SYSTEMS PROTECTION BOARD**SALARIES AND EXPENSES****(INCLUDING TRANSFER OF FUNDS)**

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; \$20,488,000, together with not to exceed \$1,400,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL**SALARIES AND EXPENSES**

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; \$5,000,000.

FEDERAL LABOR RELATIONS AUTHORITY**SALARIES AND EXPENSES**

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; \$17,540,000: *Pro-*

vided, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

26 USC 7443
note.

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; \$29,345,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge; and in addition, \$1,225,000 shall be available only for installation of a chiller/air conditioning system in the United States Tax Court Headquarters Building in the District of Columbia, to remain available until expended.

This title may be cited as the "Independent Agencies Appropriations Act, 1989".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Sec. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-4.4(b) of Armed Services Procurement Regulation dated January 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for contracts opened after its enactment.

Sec. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

40 USC 490c.

Sec. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits, and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

Sec. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

Sec. 509A. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center at the General Services Administration located in Sacramento, California.

Sec. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

Sec. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

Sec. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal

Law Enforcement Training Center located at Glynco, Georgia, and Marana, Arizona, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 515. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purposes or special mission automobiles.

SEC. 516. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 517. The provision of section 516 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

50 USC 98h note.

SEC. 518. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 519. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except

to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 520. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than \$1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels required for critical military applications. The funds used in this section for upgrading shall not exceed \$2,000,000.

SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 523. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1989.

SEC. 524. (a) Notwithstanding any other provision of law, during fiscal year 1989, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Contracts.
Washington.

Wages.
Government
organization and
employees.

Hazardous
materials.
Safety.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1989 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1989, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 525. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 526. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 per centum increase in rates of pay in such department, agency, or instrumentality made under this Act.

SEC. 528. Section 509 of this Act shall have no force or effect.

SEC. 529. The Office of Personnel Management may, during the fiscal year ending September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

Wages.
Government
organization and
employees.

Gifts and
property.
Education.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at \$6,600 except station wagons for which the maximum shall be \$7,600: *Provided*, That these limits may be exceeded by not to exceed \$2,700 for police-type vehicles, and may not to exceed \$4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

31 USC 1343
note.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than \$4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal use shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

5 USC 3101 note.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of

buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

Gifts and
property.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under this charge and con-

to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations are granted.

SEC. 612. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1989, September 30, 1990, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 8 of that title—

5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1988, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1989, and that portion of fiscal year 1990, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1990, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1989.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1988, shall be determined under regulations prescribed by the Office of Personnel Management.

Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1988, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

Wages.
Effective date.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1988.

Wages.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisal functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of \$5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

5 USC prec. 3341
note.
Reports.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

- (1) the Central Intelligence Agency;
- (2) the National Security Agency;
- (3) the Defense Intelligence Agency;
- (4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination.

31 USC 5114
note.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists.

22 USC 211a
note.

SEC. 618. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500, 99-591, and 100-202 may continue and may cover additional employees in fiscal year 1989, the Office of Personnel Management may continue to operate by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Office may provide by regulation for such exceptions from the provisions of section 7351 of title 5 as the Office may determine appropriate for the transfer of leave under this section. The Veterans' Administration may operate a similar program for employees subject to section 4108 of title 38, United States Code. The programs operated under this section shall expire at the end of fiscal year 1989, but any leave that has been transferred to an officer or employee under the programs shall

Government
organization and
employees.
5 USC 6302 note.

Termination
date.

remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 619. No funds appropriated in this or any other Act for fiscal year 1989 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)–(5) of this section.

Wages.
5 USC 5305 note.

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

Effective date.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia;

President of U.S.

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or

Congress.

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Effective date.

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Effective date.

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act.

Effective date.

SEC. 624. The Secretary of the Treasury may reduce the amount of silver required to be sold pursuant to this Act if he makes a written determination to the Congress that such a sale will severely disrupt the domestic market for silver.

Silver.
Commerce and
trade.

SEC. 625. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 626. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures nor shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated.

Employment
and
unemployment.

SEC. 627. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and services procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

SEC. 629. (a) Section 5724(a) of title 5, United States Code, amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of the individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds in weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in t

Transportation.

interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

“(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title.”.

) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies.

5 USC 5724 note.

SEC. 630. Notwithstanding any other provision of law, Public Law 94-142, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the William Langer Relocation Plant are amended by striking out all references to “General Services Administration”, “the Administrator of the General Services” and “Administrator” and inserting in lieu thereof “the National Defense Stockpile Manager”.

SEC. 631. For purposes of section 1886 of the Social Security Act, the Missouri Baptist Hospital of Sullivan in Sullivan, Missouri is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987. This Act may be cited as the “Treasury, Postal Service and General Government Appropriations Act, 1989”.

Missouri.
Effective date.

Approved September 22, 1988.

LEGISLATIVE HISTORY—H.R. 4775:

HOUSE REPORTS: No. 100-679 (Comm. on Appropriations) and No. 100-881 (Comm. on Conference).

SENATE REPORTS: No. 100-387 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 14, considered and passed House.

June 22, 24, 27, considered and passed Senate, amended.

Sept. 7, House agreed to conference report; receded and concurred in certain

Senate amendments, in others with amendments.

Sept. 8, Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 22, Presidential statement.

Sept. 22, 1988
[S. 52]

To direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

Continental
Scientific
Drilling and
Exploration Act.
Energy.
Minerals and
mining.
Research and
development.
Hazardous
materials.
43 USC 31 note.
43 USC 31 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Continental Scientific Drilling and Exploration Act".

SEC. 2. PURPOSES.

The purpose of this Act is to—

- (1) implement section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 1984 (Public Law 98-473; 98 Stat. 1875) which supports and encourages the development of a national Continental Scientific Drilling Program;
- (2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;
- (3) advance basic earth sciences research and technological development;
- (4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and
- (5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

43 USC 31 note.

SEC. 3. FINDINGS.

Congress finds that—

- (1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, an understanding of the processes and structures in the earth's crust is essential to the well being of the United States;
- (2) there is a need for developing long-range plans for the United States Continental Scientific Drilling Program; and
- (3) the Continental Scientific Drilling Program would enhance—
 - (A) understanding of the crustal evolution of the earth and the mountain building processes;
 - (B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;
 - (C) understanding of the development and utilization of geothermal and other energy sources and the formation and occurrence of mineral deposits;

(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

(E) understanding and definition of the size, source, and more effective use of aquifers and other water resources; and

(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

SEC. 4. IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM. 43 USC 31 note.

The Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the policies of section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) by—

(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such program;

(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency;

(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act a report describing—

Reports.

(A) long and short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

(B) projected schedules of desirable scientific and engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

(C) the levels of resources and funding for fiscal year 1989 that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B);

(D) the scientific, economic, technological, and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

Reports.

- (i) any other governmental agency;
 - (ii) any academic institution;
 - (iii) any organization in the private sector; and
 - (iv) any governmental or other entity in the international community;
 - (G) a plan to develop beneficial cooperative relations among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and
 - (H) any other information or recommendations that the Interagency Coordinating Group deems appropriate;
- (6) submitting to the Congress annually, beginning one year after the submission of a report under paragraph (5), a report describing the levels of resources and funding that would be required by each participating Federal agency for the next fiscal year to carry out events pursuant to paragraph (5) (A) and (B).

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 52 (H.R. 2737):

HOUSE REPORTS: No. 100-580, Pt. 1 (Comm. on Interior and Insular Affairs); Pt. 2 (Comm. on Science, Space, and Technology), accompanying H.R. 2737.

SENATE REPORTS: No. 100-67 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:

Vol. 133 (1987): June 17, considered and passed Senate.

Vol. 134 (1988): May 23, H.R. 2737 considered and passed House; procedure vacated and S. 52, amended, passed in lieu.

June 10, Senate concurred in House amendment without amendment.

Sept. 9, House concurred in Senate amendment.

Law 100-442
Congress

An Act

to amend the Indian Financing Act of 1974, and for other purposes.

Sept. 22, 1988
[S. 1360]

*enacted by the Senate and House of Representatives of the
States of America in Congress assembled,*

Small business.
Securities.

TATIONS ON AMOUNT OF LOANS TO INDIVIDUAL INDIANS OR
ECONOMIC ENTERPRISES

ON 1. Section 204 of the Indian Financing Act of 1974 (25
484) is amended by striking out “\$350,000” and inserting in
thereof “\$500,000”.

ASSIGNMENT OF LOANS

2. Section 205 of the Indian Financing Act of 1974 (25 U.S.C.
amended to read as follows:

205. Any loan guaranteed under this title, including the
given for such loan, may be sold or assigned by the lender to
another person.

AGGREGATE LOANS LIMITATION

3. Section 217 of the Indian Financing Act of 1974 (25 U.S.C.
amended by striking out “\$200,000,000” in subsection (b) and
inserting in lieu thereof “\$500,000,000”.

AUTHORIZATION OF APPROPRIATIONS

4. (a) The last sentence of subsection (e) of section 217 of the
Indian Financing Act of 1974 (25 U.S.C. 1497(e)) is amended to read
as follows: “All collections and all moneys appropriated pursuant to
this authority of this subsection shall remain available until
fiscally exhausted.”

(b) Section 217 of the Indian Financing Act of 1974 is amended by
adding at the end thereof the following new subsection:

(c) If the Secretary determines that the amount in the fund is not
adequate to maintain an adequate level of reserves necessary to
meet the responsibilities of the fund in connection with losses on
surety bonds guaranteed or insured under this title, the
Secretary shall promptly submit a report notifying Congress of
the deficiencies in the fund.”

Reports.

(d) Any new credit authority (as defined in section 3 of the
Fiscal Responsibility and Budget Control Act of 1974) which
is provided by amendments made by this Act shall be effective only
to the extent and in such amounts as may be approved in advance
by appropriation Acts.

25 USC 1497
note.

- 25 USC 1498. SEC. 5. (a) The Indian Financing Act of 1974 is amended redesignating section 218 as section 219 and inserting the following new section 218:
- 25 USC 1497a. "SEC. 218. (a) The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loan for any Indian individual or economic enterprise eligible for a surety bond guarantee under section 411 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694b), so that the aggregate of the two guarantees is 100 percent.
- "(b) The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—
- "(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 411 of the Small Business Investment Act of 1958, as amended;
- "(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;
- "(3) no more than 25 percent of the surety's business is comprised of bonds guaranteed pursuant to this section; and
- "(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.
- Regulations. "(c) The rules and regulations promulgated by the Secretary carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b). The receipts from the fees and charges shall be deposited in the Fund established by section 217(a) of this Act."
- 25 USC 1452. (b) Section 3 of the Indian Financing Act of 1974 is amended by adding the following new paragraphs (h) and (i) at the end thereof:
- "(h) 'Surety' has the same meaning as in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a);
- "(i) 'Surety Bond' means a bid bond, payment bond, or performance bond as those terms are defined in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).
- 25 USC 1496. (c) Section 216 of the Indian Financing Act of 1974 is amended by—
- (1) striking the phrase "of loans" in the first sentence and inserting, in lieu thereof, the phrase "of loans and surety bonds";
- (2) striking the phrase "a loan" in paragraph (b) and inserting, in lieu thereof, the phrase "a loan or surety bond", and
- (3) striking the phrase "any loan" in paragraph (c) and inserting, in lieu thereof, the phrase "any loan or surety bond".
- 25 USC 1497. (d) Section 217 of the Indian Financing Act of 1974 is amended by striking the word "loans" each time it appears and inserting, in lieu thereof, the phrase "loans or surety bonds".
- SEC. 6. The Indian Financing Act of 1974 is amended by adding the following new section at the end of title II:
- 25 USC 1499. "SEC. 220. (a) The Secretary may guarantee not to exceed 20 percent of the unpaid principal and interest due on an issue of bonds, debentures, or similar obligations issued by an organization satisfactory to the Secretary. Such an issue shall be deemed a loan

poses of sections 202, 203, 204, 205, 206, 209, 210, 211, 213, 214, and 217 of this Act.

the method by which an issue of bonds guaranteed under this may be sold shall be subject to approval by the Secretary.”.

. The Indian Financing Act of 1974 is amended by adding a tion 504 as follows:

504. Notwithstanding any other provision of law, a contrac- Federal agency under any Act of Congress may be allowed tional amount of compensation equal to 5 percent of the paid, or to be paid, to a subcontractor or supplier, in g out the contract if such subcontractor or supplier is an organization or Indian-owned economic enterprise as defined Act.”.

Contracts.
25 USC 1544.

oved September 22, 1988.

LEGISLATIVE HISTORY—S. 1360:

REPORTS: No. 100-838 (Comm. on Interior and Insular Affairs).

REPORTS: No. 100-149 (Select Comm. on Indian Affairs).

LEGISLATION RECORD:

l. 133 (1987): Nov. 5, considered and passed Senate.

Nov. 17, passage vitiated; reconsidered and passed Senate.

l. 134 (1988): Aug. 8, considered and passed House, amended.

Sept. 9, Senate concurred in House amendments.

Public Law 100-443
100th Congress

An Act

Sept. 22, 1988
[S. 1889]

To amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Geothermal
Steam Act
Amendments of
1988.
Energy.
National parks,
monuments, etc.
30 USC 1001
note.

SECTION 1. SHORT TITLE.

This Act may be known as the “Geothermal Steam Act Amendments of 1988”.

SEC. 2. DEFINITIONS.

(a) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by adding the following at the end of the section:

“(f) ‘Significant thermal features within units of the National Park System’ shall include, but not be limited to, the following:

“(1) Thermal features within units of the National Park System listed in Section 28(a)(1) and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 157, Fed. Reg. 28790).

“(2) Crater Lake National Park.

“(3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 68, Fed. Reg. 4700).

“(4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to section 28(a)(2) of this Act.

(b) Section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) is amended to read as follows:

“(d) Except as otherwise provided for in this section, for purposes of this section the term ‘produced or utilized in commercial quantities’ means the completion of a well producing geothermal steam in commercial quantities. Such term shall also include the completion of a well capable of producing geothermal steam in commercial quantities so long as the Secretary determines that diligent efforts are being made toward the utilization of the geothermal steam.

SEC. 3. LEASE EXTENSIONS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by adding the following new subsections:

“(g)(1) Any geothermal lease issued pursuant to this Act for land on which, or for which under an approved cooperative or unit plan of development or operation, geothermal steam has not been produced or utilized in commercial quantities by the end of its primary term, or by the end of any extension provided by subsection (c), may be extended for successive 5-year periods, but totaling not more than 10 years, if the Secretary determines that the lessee has met the bona fide effort requirement of subsection (h), and either of the following:

“(A) the payment in lieu of commercial quantities production requirement of subsection (i).

“(B) The significant expenditure requirement of subsection (j).

2) A lease extended pursuant to paragraph (1) shall continue so thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional 25 years, for a total of 50 years, if such lease was also the object of an extension under subsection (c) or an additional 30 years, for a total of 50 years, if such lease is only extended pursuant to paragraph (1).

3) If, at the end of either 50-year term referred to in paragraph (1), geothermal steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate. For purposes of this paragraph only, the term ‘produced or utilized in commercial quantities’ means a bona fide sale or the use of geothermal steam by the lessee to generate electricity in marketable quantities.

4) To meet the bona fide effort requirement referred to in subsection (g)(1) the lessee must submit a report to the Secretary demonstrating bona fide efforts (as determined by the Secretary) to produce or utilize geothermal steam in commercial quantities for the lease, given the then current economic conditions.

Reports.

5) (1) To meet the payments in lieu of commercial quantities production requirement referred to in subsection (g)(1)(A) the lessee shall agree to the modification of the terms and conditions of the lease to require annual payments to the Secretary in accordance with this subsection.

2) Payments under this subsection shall commence with the first year of the extension. Payments shall be equal to the following:

“(A) In each of the first through the fifth payment years, at least \$3.00 per acre or fraction thereof, of lands under lease.

“(B) In each of the sixth through the tenth payment years, at least \$6.00 per acre or fraction thereof, of lands under lease.

3) Failure to make the payments required by this subsection shall subject the lease to cancellation.

4) No payments made pursuant to this subsection shall be required after the earlier of the following:

“(A) The date of termination of the lease.

“(B) The date of relinquishment of the lease.

“(C) The date geothermal steam is produced or utilized in commercial quantities from the lease.

5) No payments made pursuant to this subsection shall be used to reduce rentals or future production royalties.

j)(1) To meet the significant expenditure requirement referred to in subsection (g)(1)(B) the lessee must demonstrate to the Secretary on an annual basis during an extension that a significant expenditure of funds is being made on the lease.

2) The following expenditures made by the lessee shall qualify as meeting the requirement of this subsection:

“(A) Expenditures to conduct actual drilling operations on the lease, such as for exploratory or development wells, or geochemical or geophysical surveys for exploratory or development wells.

“(B) Expenditures for road or generating facilities construction on the lease.

“(C) Architectural or engineering services procured for the design of generating facilities to be located on the lease.

“(D) Environmental studies required by State or Federal law.

“(3) Expenditures shall be equal to the following:

“(A) In each of the first through the fifth years, at least \$15.00 per acre or fraction thereof, of lands under lease.

“(B) In each of the sixth through the tenth years, at least \$18.00 per acre or fraction thereof, of lands under lease.

“(4) Failure to make the expenditures required by this subsection shall subject the lease to cancellation.

“(5) No expenditures made pursuant to this subsection shall be required after the date geothermal steam is produced or utilized in commercial quantities from the lease.

“(6) Expenditures made pursuant to this subsection shall be in lieu of any minimum per acre diligent exploration expenditure requirement in effect for the lease at the end of its primary term, or at the end of any extension provided by subsection (c), as the case may be.”.

SEC. 4. REVIEW OF COOPERATIVE OR UNIT PLAN OF DEVELOPMENT.

Section 18 of the Geothermal Steam Act of 1970 as amended (30 U.S.C. 1017) is amended by inserting the following new paragraph after the first full paragraph of that section:

“No more than five years after approval of any cooperative or unit plan of development or operation, and at least every five years thereafter, the Secretary shall review each such plan and, after notice and opportunity for comment, eliminate from inclusion in such plan any lease or part of a lease not regarded as reasonably necessary to cooperative or unit operations under the plan. In the case of a cooperative or unit plan approved before the enactment of the Geothermal Steam Act Amendments of 1988, the Secretary shall complete such review and elimination within 5 years after the enactment of such Act. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any lease or part of a lease so eliminated shall be eligible for an extension under subsection (c) or (g) of section 6 if it separately meets the requirements for such an extension.”.

Conservation.

SEC. 5. CONFORMING AMENDMENTS.

(a) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

“SEC. 20. All moneys received from the sales, bonuses, royalties and rentals under the provisions of this Act, including the payments referred to in section 6(i), shall be disposed of in the same manner as such moneys received pursuant to section 35 of the Mineral Leasing Act or pursuant to section 6 of the Mineral Leasing Act for Acquired Lands, as the case may be.”.

(b) Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by striking “notwithstanding the provisions of section 20 thereof,”.

(c) Section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) is amended as follows:

(1) In subsection (a) strike out “oil and gas”, and after “this Act” insert “or under the Geothermal Steam Act of 1970”.

(2) In subsection (b) after "oil and gas" insert ", coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources".

Coal.
Petroleum and
petroleum
products.

The Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) is amended by adding the following new section:

c. 29. The Secretary shall not issue any lease under this Act on lands subject to the prohibition provided under section 43 of the Mineral Leasing Act."

30 USC 1027.

SIGNIFICANT THERMAL FEATURES.

The Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) is amended by adding the following new section 28:

c. 28. (a)(1) The Secretary shall maintain a list of significant thermal features, as defined in section 2(f), within units of the National Park System, including but not limited to the following

Records.
30 USC 1026.

"(A) Mount Rainier National Park.
"(B) Crater Lake National Park.
"(C) Yellowstone National Park.
"(D) John D. Rockefeller, Jr. Memorial Parkway.
"(E) Bering Land Bridge National Preserve.
"(F) Gates of the Arctic National Park and Preserve.
"(G) Katmai National Park.
"(H) Aniakchak National Monument and Preserve.
"(I) Wrangell-St. Elias National Park and Preserve.
"(J) Lake Clark National Park and Preserve.
"(K) Hot Springs National Park.
"(L) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park).

"(M) Lassen Volcanic National Park.
"(N) Hawaii Volcanoes National Park.
"(O) Haleakala National Park.
"(P) Lake Mead National Recreation Area.

The Secretary may, after notice and public comment, add significant thermal features within units of the National Park System to the significant thermal features list.

The Secretary shall consider the following criteria in determining the significance of thermal features:

"(A) Size, extent and uniqueness.
"(B) Scientific and geologic significance.
"(C) The extent to which such features remain in a natural, undisturbed condition.

"(D) Significance of thermal features to the authorized purposes for which the National Park System unit was established.

(1) The Secretary shall maintain a monitoring program for significant thermal features within units of the National Park System.

As part of the monitoring program required by paragraph (1), the Secretary shall establish a research program to collect and analyze data on the geothermal resources within units of the National Park System with significant thermal features. Such program shall be carried out by the National Park Service in cooperation with the Geological Survey and shall begin with the collection and management of data for significant thermal features near current or proposed geothermal development and shall also include such features near areas of potential geothermal development.

Public
information.

“(c)(1) Upon receipt of an application for a lease under this Act, the Secretary shall determine on the basis of scientific evidence if exploration, development or utilization of the lands subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System. Such determination shall be subject to notice and public comment.

“(2) If the Secretary determines that the exploration, development or utilization of the land subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System, the Secretary shall not issue such lease.

“(3) The Secretary shall not issue any lease under this Act for those lands, or portions thereof, which are the subject of a determination made pursuant to subparagraph (2).

“(d) With respect to all leases or drilling permits issued, extended, renewed or modified under this Act, the Secretary shall include stipulations in such leases and permits necessary to protect significant thermal features within units of the National Park System where the Secretary determines that, based on scientific evidence, the exploration, development or utilization of the land subject to the lease or drilling permit is reasonably likely to adversely affect any such significant thermal feature. Stipulations shall include, but not be limited to—

Reports.

“(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

“(2) requiring the lessee to report annually to the Secretary on activities taken on the lease;

“(3) requiring the lessee to continuously monitor geothermal steam and associated geothermal resources production and injection wells; and

“(4) requiring the lessee to suspend activity on the lease if the Secretary determines that ongoing exploration, development or utilization activities are having a significant adverse effect on a significant thermal feature within a unit of the National Park System until such time as the significant adverse effect is eliminated. The stipulation shall provide for the termination of the lease by the Secretary if the significant adverse effect cannot be eliminated within a reasonable period of time.

Forests and
forest products.
Public lands.

“(e) The Secretary of Agriculture shall consider the effects on significant thermal features within units of the National Park System in determining whether to consent to leasing under this Act on national forest lands or other lands administered by the Department of Agriculture available for leasing under this Act, including public, withdrawn, and acquired lands.

“(f) Nothing in this Act shall affect the ban on leasing under this Act with respect to the Island Park Geothermal Area, as designated by the map in the ‘Final Environmental Impact Statement of the Island Park Geothermal Area’ (January 15, 1980, p. XI), and provided for in Public Law 98-473.”.

SEC. 7. CRATER LAKE NATIONAL PARK REPORT.

On March 1, 1989, or 6 months after the date of enactment of this section (whichever is later), the Secretary shall submit to Congress a report on the presence or absence of significant thermal features within Crater Lake National Park.

8. CORWIN SPRINGS KGRA STUDY.

30 USC 1026
note.

(a) The United States Geological Survey, in consultation with the National Park Service, shall conduct a study on the impact of present and potential geothermal development in the vicinity of Yellowstone National Park on the thermal features within the park. The area to be studied shall be the lands within the Corwin Springs Known Geothermal Resource Area as designated in the July 22, 1985, Federal Register (Fed. Reg. Vol. 40, No. 141). The study shall be transmitted to Congress no later than December 1, 1990.

(b) Any production from existing geothermal wells or any development of new geothermal wells or other facilities related to geothermal production is prohibited in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in subsection (a) of this section.

(c) The Secretary may not issue, extend, renew or modify any geothermal lease or drilling permit pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in section 8(a) of this Act. This section shall not be construed as requiring such leasing activities subsequent to the 180 days after study submittal.

(d) If the Secretary determines that geothermal drilling and related activities within the area studied pursuant to subsection (a) of this section may adversely affect the thermal features of Yellowstone National Park, the Secretary shall include in the study required under subsection (a) of this section recommendations regarding the acquisition of the geothermal rights necessary to protect such thermal resources and features.

Environmental
protection.

9. CONSISTENCY PROVISION.

30 USC 1005
note.

To the extent that any provision in this Act is inconsistent with the provisions of section 115(2) of title I of section 101(h) of Public Law 99-591 (100 Stat. 3341-264 through 100 Stat. 3341-266), this Act shall be deemed to supersede the provisions of such section.

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 1889 (H.R. 2794):

HOUSE REPORTS: No. 100-664 accompanying H.R. 2794 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-283 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Feb. 16, considered and passed Senate.

June 13, H.R. 2794 considered and passed House; proceedings vacated and S. 1889, amended, passed in lieu.

Aug. 9, Senate concurred in House amendments with an amendment.

Sept. 9, House concurred in Senate amendment.

Joint Resolution

Sept. 26, 1988

[H.J. Res. 518]

Designating the week of September 25, 1988, as "Religious Freedom Week".

Whereas the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;
Whereas religious liberty has been endangered throughout history by bigotry and indifference;
Whereas the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;
Whereas the first amendment to the Constitution ensures religious freedom to all of the people of the United States;
Whereas the bicentennial of the ratification of the Constitution occurs in 1988;
Whereas, at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";
Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than a year before the adoption of the Bill of Rights;
Whereas the letter of President Washington and the Touro Synagogue have become symbols of the commitment of the United States to religious freedom;
Whereas, throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics and justice;
Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and
Whereas religious liberty can be protected only through the effort of all persons of good will in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 25, 1988, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or of none, may join together in support of religious tolerance and religious liberty for all.

Approved September 26, 1988.

LEGISLATIVE HISTORY—H.J. Res. 518 (S.J. Res. 361):

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 16, considered and passed House.

Sept. 19, S.J. Res. 361 and H.J. Res. 518
considered and passed Senate.

Public Law 100-445
100th Congress

Joint Resolution

To designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week".

Sept. 26, 1988

[S.J. Res. 290]

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 25, 1988, and ending on October 1, 1988, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 26, 1988.

LEGISLATIVE HISTORY—S.J. Res. 290:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

An Act

Sept. 27, 1988
[H.R. 4867]

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management \$508,462,000, of which not to exceed \$1,000,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a(i)), \$70,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, and \$23,000,000 for the Automated Land and Mineral Record System Project shall remain available until expended: *Provided*, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: *Provided further*, That in fiscal year 1989 all but \$742,000 of receipts, and thereafter all receipts from fees established by the Secretary of the Interior for processing of actions relating to the administration of the General Mining Laws shall be available for program operations in Mining Law Administration by the Bureau of Land Management to supplement funds otherwise available, to remain available until expended.

43 USC 1474.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, \$5,431,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), \$105,000,000, of which not to exceed \$400,000 shall be available for administrative expenses. The Payments in Lieu of Taxes Act (31 U.S.C. 6901(2)) is amended by deleting the phrase "existing in the State of Alaska on the date of enactment of this Act" from the definition of a unit of Government.

31 USC 6901
note.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, \$12,290,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; \$60,000,000, to remain available until expended: *Provided*, That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further*, That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than \$8,506,000, to remain available until expended: *Provided*, That not to exceed \$600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and

termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided*, That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further*, That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to \$25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed \$10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the reverted Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions

in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further*, That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed \$400 annually.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than \$1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, \$360,688,000, of which \$5,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which \$6,811,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended: *Provided*, That none of the funds provided herein may be used for the planning, implementation, or financing of agreements or arrangements with entities for the management of the Wynne complex on Matagorda Island, Texas, except for agreements or arrangements existing as of the date of enactment of this Act; and of which \$1,500,000 shall remain available until expended for the development and installation of displays, exhibits, films, and other educational material for an ecological center, which will display the interdependency of fish and wildlife habitat upon each other and the need for informed public stewardship of these resources, including man's impact on freshwater and coastal streams, and which will be located on non-Federal land and be constructed by non-Federal participants.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; \$31,834,000, to remain

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, \$57,529,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided*, That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, \$1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further*, That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Stillwater Wildlife Management Area is approved by the State of Nevada.

The Secretary may acquire lands and waters or interests therein subject to the interest of the State of California, including the public trust, in lands including submerged lands which are now or at any time have been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or said lands are now or at any time have been below the ordinary high water mark of the Sacramento River, if said river and/or its tributaries is in its natural state; and further subject to any adverse claim based upon the assertion that (i) any portion of said lands is not now or has not at any time been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or is not now and has not at any time been below the ordinary high water mark, if said river and/or its tributaries is in its natural state; (ii) some portion of said lands has been created by artificial means or has accreted to such portion so created; or (iii) some portion of said lands has been brought within the boundaries thereof by an avulsive movement of the Sacramento River and/or its tributaries, or has been formed by accretion to any such portion.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), \$6,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 160 passenger motor vehicles, of which 153 are for replacement only (including 46 for police-type use); not to exceed \$400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United

tes Fish and Wildlife Service, and miscellaneous and emergency
enses of enforcement activities, authorized or approved by the
retary and to be accounted for solely on his certificate; repair of
age to public roads within and adjacent to reservation areas
sed by operations of the United States Fish and Wildlife Service;
ions for the purchase of land at not to exceed \$1 for each option;
ilities incident to such public recreational uses on conservation
as as are consistent with their primary purpose; and the mainte-
nce and improvement of aquaria, buildings, and other facilities
er the jurisdiction of the United States Fish and Wildlife Service
to which the United States has title, and which are utilized
suant to law in connection with management and investigation
ish and wildlife resources: *Provided*, That the United States Fish
Wildlife Service may accept donated aircraft as replacements
isting aircraft: *Provided further*, That hereafter the Columbian
ite Tail Deer Refuge shall be known as the Julia Butler Hansen
uge for the Columbian White Tail Deer.

Gifts and
property.
National
Wildlife Refuge
System.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

or expenses necessary for the management, operation, and
aintenance of areas and facilities administered by the National
k Service (including special road maintenance service to truck-
permittees on a reimbursable basis), and for the general
ministration of the National Park Service, including not to exceed
2,000 for the Roosevelt Campobello International Park Commis-
a and not less than \$1,000,000 for high priority projects within
scope of the approved budget which shall be carried out by
ath Conservation Corps as if authorized by the Act of August 13,
0, as amended by Public Law 93-408, \$744,835,000, without
ard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of
ch not to exceed \$52,200,000 to remain available until expended
be derived from the special fee account established pursuant to
e V, section 5201, of Public Law 100-203: *Provided*, That the
tional Park Service shall not enter into future concessionaire
tracts, including renewals, that do not include a termination for
se clause that provides for possible extinguishment of possessory
erests excluding depreciated book value of concessionaire invest-
nts without compensation: *Provided further*, That \$85,000 shall
available to assist the town of Harpers Ferry, West Virginia, for
ice force use: *Provided further*, That funds appropriated to the
tional Park Service may be used for the purchase or hire of
sonnel services without regard to personnel laws as contained in
e V of the United States Code, only to provide for the orderly
nsition from regional finance offices to a central finance office:
Provided further, That of the funds provided herein, \$250,000 is
ilable for the National Institute for the Conservation of Cultural
perty: *Provided further*, That no funds appropriated by this Act
ll be available to remove, obstruct, dewater, fill, or otherwise
nage the Brooks River fish ladder in the Katmai National Park,
aska: *Provided further*, That where any Federal lands included
hin the boundary of the Park created by the Act of December 18,
1 (Public Law 92-207), were legally occupied or utilized on the
e of approval of that Act for grazing purposes pursuant to a lease,
mit, or license issued or authorized by any department, establish-

16 USC 20b note.

16 USC 273b
note.

ment, or agency of the United States, the person or persons so occupying or utilizing such lands and the heirs of such person or persons shall at that time be entitled to renew said leases, permits, or licenses under such terms and conditions as the Secretary of the Interior may prescribe, for the lifetime of the permittee or any direct descendants (sons or daughters) born on or before the enactment of Public Law 92-207 (December 18, 1971). Such grazing activities shall be subject to the following conditions:

Animals.

(a) Grazing will be based on active preference that exists on the date of this Act and no increase in animal unit months will be allowed on Park lands.

(b) No physical improvements for stock use will be established on National Park Service lands without the written concurrence of the Park Superintendent.

(c) Nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes.

(d) Nothing contained in this Act shall be construed as creating any vested right, title interest, or estate in or to any Federal lands.

(e) The provisions of Public Law 97-341 are hereby repealed.

(f) Grazing will be managed to encourage the protection of the Park's natural and cultural resources values.

16 USC 273b
note.
Environmental
protection.
Cultural
programs.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, \$14,608,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), \$30,500,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1990: *Provided*, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further*, That \$1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1989 shall include consideration of such factors as—

Grants.

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1989;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1989; and

(C) the availability of matching contributions in the State: *Provided further*, That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further*, That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further*, That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), \$159,108,000, to remain available until expended, including \$1,450,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided*, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, \$7,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1989 by 16 U.S.C. 4601-10a is rescinded.

16 USC 4601-10a
note.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, \$72,609,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, including \$3,300,000 to administer the State Assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, \$357,000 shall be available in 1989 for administrative expenses of the State grant program: *Provided further*, That \$3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Caro-

lina, subject to enactment of authorizing legislation: *Provided further*, That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

20 USC 76l note.

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, \$5,181,000: *Provided*, That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, \$250,000.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

For expenses necessary to pay awards resulting from claims by licensees against the American Revolution Bicentennial Administration and its successors, \$4,765,000: *Provided*, That payment of awards shall occur no later than 30 days after enactment of this Act.

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

National Film Preservation Act of 1988.

2 USC 178 note.
2 USC 178.

For necessary expenses of the National Film Preservation Board in the Library of Congress, \$250,000: *Provided*, That the following may be cited as the "National Film Preservation Act of 1988":

The Congress finds that—

- (1) motion pictures are an indigenous American art form that has been emulated throughout the world;
- (2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and
- (3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

2 USC 178a.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

2 USC 178b.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(a) **POWERS.**—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rule-making procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry; and

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

Federal
Register,
publication.
Reports.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National

Gifts and
property.

Regulations.

Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

2 USC 178c.

SEC. 4. LABELING REQUIREMENTS.

(a) **LABEL REQUIRED.**—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) **EFFECTIVE DATE OF LABEL.**—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) **EXCEPTIONS.**—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply if the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) **REQUIREMENTS OF THE LABEL.**—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel."

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

“This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.”; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

“This is a colorized version of original work. See front panel.”.

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

C. 5. MISUSE OF SEAL.

2 USC 178d.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal as described by section 3(a)(2)(C) of this Act if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

C. 6. REMEDIES.

2 USC 178e.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

Courts, U.S.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be granted to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of willful violation of this Act, the United States District Courts may order civil fines of not more than \$10,000 and appropriate injunctive relief.

Law enforcement and crime.

C. 7. LIMITATIONS OF REMEDIES.

2 USC 178f.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

C. 8. NATIONAL FILM PRESERVATION BOARD.

2 USC 178g.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish the Library of Congress a National Film Preservation Board to be comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than five qualified candidates to the Librarian. The Librarian shall appoint

one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

- (A) the Academy of Motion Picture Arts and Sciences;
- (B) the Directors Guild of America;
- (C) the Writers Guild of America;
- (D) the National Society of Film Critics;
- (E) the Society for Cinema Studies;
- (F) the American Film Institute;
- (G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;
- (H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;
- (I) the University Film and Video Association;
- (J) the Motion Picture Association of America;
- (K) the National Association of Broadcasters;
- (L) the Association of Motion Picture and Television Producers; and
- (M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) **CHAIRPERSON.**—The Librarian shall appoint one member to serve as Chairperson.

(c) **TERM OF OFFICE.**—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) **QUORUM.**—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) **BASIC PAY.**—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) **MEETINGS.**—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the Chairperson or a majority of its members.

(g) **CONFLICT OF INTERESTS.**—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

9. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

2 USC 178h.

STAFF.—The Chairperson of the Board may appoint and fix the of such personnel as the Chairperson considers appropriate.

APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of Board may be appointed without regard to the provisions of title United States Code, governing appointments in the competitive ice, and may be paid without regard to the provisions of chapter and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual appointed may receive pay in excess of the annual rate of basic payable for GS-16 of the General Schedule.

EXPERTS AND CONSULTANTS.—The Chairperson of the Board procure temporary and intermittent services under section (b) of title 5, United States Code, but at rates for individuals not exceed the daily equivalent of the maximum rate of basic pay ble for GS-15 of the General Schedule, and in no case may a d member be paid as an expert or consultant.

10. POWERS OF BOARD.

2 USC 178i.

IN GENERAL.—The Board may, for the purpose of carrying out duties, hold such hearings, sit and act at such times and places, such testimony, and receive such evidence, as the Board consid- appropriate. The Board shall review nominations of films mitted to it for inclusion in the National Film Registry and ult with the Librarian with respect to the inclusion in the stry, and with respect to the powers defined in section 3.

NOMINATION OF FILMS.—The Board shall consider, for inclusion e National Film Registry, nominations submitted by represent- es of the film industry, such as the guilds and societies rep- resenting actors, directors, screenwriters, producers, and film crit- ilm preservation organizations and representatives of academic tutions with film study programs. The Board shall not nominate e than 25 films a year for inclusion in the Registry.

11. DEFINITIONS.

2 USC 178j.

DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections ough 13:

(1) The term “Librarian” means the Librarian of Congress.

(2) The term “film” means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term “film package” means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term “Board” means the National Film Preservation Board.

(5) The term “material alteration” means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribu- tion or broadcast.

(6) The term “to colorize” means to add color, by whatever means, to versions of motion pictures originally produced, mar- keted, or distributed in black and white.

(7) The term “colorization” means the process whereby a film is colorized.

(b) **EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".**—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

2 USC 178k.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed \$250,000.

2 USC 178l.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, in the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 360 passenger motor vehicles, of which 290 shall be for replacement only, including not to exceed 290 for police-type use and 26 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding \$100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed \$1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further*, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further*, That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not includ-

Reports.

ing any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen months of the date on which Public Law 100-202 was enacted. After completion and filing, the Environmental Impact Statement shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway: *Provided*, That the National Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, and any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until an environmental impact statement has been completed: *Provided*, That such statement shall be completed within two years of the date of enactment of this Act.

None of the funds provided in this Act shall be available for an appeal to the February 26, 1988, special rate pay approved by the Office of Personnel Management for the United States Park Police.

The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service em-

Fellowships and scholarships.
Pietro Antonio Bevinetto.
Government organization and employees.

ployees participating in the program shall be known as "Bevinetto Fellows".

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; up to \$500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided*, That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and \$451,006,000, of which \$58,800,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 19 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

Contracts.
Grants.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; \$170,744,000, of which not less than \$35,000 shall be used by the Secretary to enter into a cooperative

agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided*, That notwithstanding the provisions of sections 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731), sections 202 through 206 of that Act (30 U.S.C. 1732-1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further*, That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g), and of which not less than \$52,302,000 shall be available for royalty management activities including general administration: *Provided further*, That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed \$3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine clean-up activities: *Provided further*, That of the above enacted amounts, \$250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project.

Contracts.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, \$159,292,000, of which \$91,010,000 shall remain available until expended: *Provided*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

Gifts and property.

Chemicals.
Minerals and mining.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed \$400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; \$101,095,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1989: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1989 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in *NWR v. Miller*, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, \$193,160,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer ade-

quately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further*, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further*, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE sponsored training: *Provided further*, That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

80 USC 1211
note.

Funds authorized as grants to States shall be reconciled according to—

(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, \$992,767,000, of which not to

exceed \$71,604,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1990, and of which \$25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1990: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), \$1,997,000, to remain available until expended: *Provided further*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That \$250,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further*, That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further*, That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further*, That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further*, That \$230,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further*, That if the actual amounts required in this account for costs of the Federal Employee Retirement System in fiscal year 1989 are less than amounts estimated in budget documents, such excess funds may be transferred to "Construction" and "Miscellaneous Payments to Indians" to cover the costs of the retirement system in those accounts: *Provided further*, That notwithstanding any other provision of law, concurrent with the opening of the Western Cheyenne River Consolidated School the following schools shall be permanently closed: Bridger Day School (Howes, SD); Cherry Creek Day School (Cherry Creek, SD); and the Red Scaffold School (Faith, SD): *Provided further*, That subsection (b) of section 5 of the Cow Creek Band of Umpqua Tribe of Indians

Recognition Act (25 U.S.C. 712c) is amended by striking out "Indian individuals" and inserting in lieu thereof "Cow Creek descendants or other Indian individuals": *Provided further*, That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary of Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989, the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990, the minimum weight factor shall be 1.2 rather than 1.3: *Provided further*, That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Job Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level: *Provided further*, That notwithstanding any other provision of law, any portion of the funds appropriated under the authority of Public Law 93-530 not yet obligated, but not to exceed \$700,000, shall be transferred by the Secretary of the Interior to the governing body of the San Carlos Apache Tribe (hereafter referred to as the "Tribe") by no later than the date that is sixty days after the date of enactment of this Act. Amounts transferred to the Tribe under this proviso shall be used for economic development purposes in accordance with the plan which was adopted by the governing body of the Tribe on April 12, 1988, and any amendment thereto which has been approved by the Secretary of the Interior. The Tribe may expend the amounts transferred under this proviso for the purposes authorized without the prior approval of the Secretary of the Interior. None of the funds transferred to the Tribe may be used to make per capita payments to the members of the Tribe: *Provided further*, That notwithstanding any other provision of law, the funds transferred by this Act to the San Carlos Apache Tribe may be treated as non-Federal, private funds of the Tribe for purposes of any provision of Federal law which requires that non-Federal or private funds be used in a project or for a specific purpose: *Provided further*, That the Federal Government shall have no further obligation to appropriate funds for the purposes identified in Public Law 93-530.

25 USC 452 note.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, \$79,283,000, to remain available until expended: *Provided*, That \$1,449,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, and administration related to the relocation of Navajo families: *Provided further*, That \$1,100,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided*

further, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, and 99-503, including funds for necessary administrative expenses, \$13,952,000, to remain available until expended, of which not to exceed \$11,300,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

REVOLVING FUND FOR LOANS

During fiscal year 1989, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), \$3,370,000, to remain available until expended: *Provided*, That during fiscal year 1989, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, \$92,767,000, of which (1) \$89,741,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732);

grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) \$3,026,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That \$710,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation.

48 USC 1401f,
1423f, 1665.

48 USC 1469b.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; \$28,434,000 including \$10,304,000 for payment of claims pursuant to the Micronesian Claims Act of 1971, to remain available until expended: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1989, shall be credited as an offset against fiscal year 1989 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1989: *Provided further*, That any unobligated balances for Palau government operations which remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

Effective date.

Reports.

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, \$32,360,000, including \$2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further*, That in full satisfaction of the obligation of the United States to provide funds to assist in the resettlement and rehabilitation of Bikini Atoll by the People of Bikini, to which the full faith and credit of the United States is pledged pursuant to section 103(l) of Public Law 99-239, the United States shall deposit \$90,000,000 into the Resettlement Trust Fund for the People of Bikini established pursuant to Public Law 97-257, and governed pursuant to the terms of such trust instrument, such deposit to be installments of \$5,000,000 on October 1, 1988; \$22,000,000 on October 1, 1989; \$21,000,000 on October 1, 1990; \$21,000,000 on October 1, 1991; and \$21,000,000 on October 1, 1992: *Provided further*, That the terms of such Resettlement Trust Fund are hereby modified to provide that corpus and income may be expended for rehabilitation and resettlement of Bikini Atoll, except that the Secretary may approve expenditures not to exceed \$2,000,000 in any year from income for projects on Kili or Ejit: *Provided further*, That one year prior to completion of the rehabilitation and resettlement program, the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll. Unless otherwise determined by Congress, following completion of the rehabilitation and resettlement program, funds remaining in the Resettlement Trust Fund in excess of the amount identified by the Secretary as required for future funding needs shall be deposited in the United States Treasury as miscellaneous receipts. Upon completion of those needs, the Resettlement Trust Fund shall be extinguished and all remaining funds shall be deposited in the United States Treasury as miscellaneous receipts. The payment and use of funds in accordance herewith is for the sole purpose of implementing and fulfilling the terms of the Section 177 Agreement referred to in section 462(d) of the Compact of Free Association between the United States and the Republic of the Marshall Islands, including Article VI, section 1, and Articles X and XII, thereof. Payments pursuant hereto shall be made only upon: One, voluntary dismissal with prejudice of *Juda et al. v. the United States*, No. 88-1206 (Fed. Cir.); and two, submission of written notice to the United States and the Republic of the Marshall Islands, executed by duly-authorized representatives acting on their behalf, that the People of Bikini accept the obligations and undertaking of the United States to make the payments prescribed by this Act, together with the other payments, rights, entitlements and benefits provided for under the Section 177 Agreement, as full satisfaction of all claims of the People of Bikini related in any way to the United States nuclear testing program in accordance with the terms of the Section 177 Agreement.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, \$49,067,000, of which not to exceed \$10,000 may be for official reception and representation expenses: *Provided*, That the National Park Service shall reissue a Notice of Proposed Rule-making on the mandatory use of seatbelts while traveling on National Park Service roads within 30 days after the date of enactment of this Act.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, \$24,686,000.

OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, \$18,749,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, \$1,800,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

Gifts and
property.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the

Public buildings
and grounds.

Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primary State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed \$500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided*, That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided*, That no funds made available by this or any other Act shall be expended to exchange lands located within the

boundaries of the Lake Mead National Recreation Area in Nevada township 32 south, range 22 west, Mount Diablo Meridian.

Sec. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

Sec. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with the office of Personnel Management regulations.

Sec. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the Eastern Gulf of Mexico planning area of the Department of the Interior which lie south of 26 degrees North latitude and east of 86 degrees West longitude.

Sec. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity within the area identified by the Department of the Interior in the draft Environmental Impact Statement (MMS 87-0032) for Lease 91 in the Northern California planning area issued December, 1987.

Sec. 112. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, releasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190; or of lands within the 400 meter isobath surrounding Georges Bank, identified by the Department of the Interior as consisting of the following blocks: in protraction diagram NK 19-2, blocks numbered 12-16, 54-55 and 57-58; in protraction diagram NK 19-5, blocks numbered 744, 788, 831-832, and 1005-1008; in protraction diagram NK 19-6, blocks numbered 489-491, 522-537, 574-576, 578-581, 618-627, 661-662, 664-671, 705-716, 749-751, 793-805, and 969-971; in protraction diagram NK 19-8, blocks numbered 37-40, 80-84, 124-127, and 168-169; in protraction diagram NK 19-9, blocks numbered 13-18, 58-63, 102-105, 107-108, 116-149, 151-152, 191-193, 195-197, 235-237, 240-242, 280-282, 284-286, 324-331, 368-376, 412-420, 456-465, 500-510, 543-554, 587-594, 606-599, 631-637, 640-644, 675-688, 718-733, 762-778, 805-821, 846-848, 887-891, 894-908, 930-950, and 972-994; in protraction diagram NK 19-10, blocks numbered 474-478, 516-524, 560-568, 604-612, 617-660, 692-704, 737-748, 787-792, 830-836, 873-880, 967-968, and 1011-1012; in protraction diagram NK 19-11, blocks numbered 621-622, 665-676, 700, 709-720, 744, 753-764, 785, 797-808, 825-827, 831-852, 856-860, 869, 890-905, 907-909, 929-931, 941-945, 947-949, 953-975, and 985-989; and in protraction diagram NK 19-12, blocks numbered 452-456, 495-499, 536-537, 539-541, 575-577, 579-582, 587-621, 623-624, 661-662, 664-665, and 705-706.

Sec. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lie south of 26 degrees North latitude and east

of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters.

Nevada.
Housing.
Aged persons.
Minerals and
mining.

SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the Housing Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided*, That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States.

48 USC 1681
note.
Grants.
Marshall
Islands.
Contracts.

SEC. 115. Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended as follows: after the word "firm" insert "or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands"; and, after the word "Bikini" insert ", Rongelap, Utrik,".

Loans.
Guam.
Water.
Utilities.

SEC. 116. The Secretary of the Interior is authorized to guarantee a loan by the Federal Financing Bank to the Government of Guam, in amounts not to exceed \$53,000,000, for water system improvements on Guam: *Provided*, That the conditions on such loan shall include but not be limited to the following: the Government of Guam shall place water rate-making authority in an independent public utility commission; a source of revenue for payment of the loan shall be identified, with such revenues placed in an escrow account in sufficient amounts to insure timely payment; and, should the Government of Guam default on the loan, the Secretary of the Interior shall deduct such sums as are in arrears from sums normally paid to the Government of Guam under section 1(c) of Public Law 95-348.

Louisiana.
Contracts.
Water.

SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an independent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include—

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986 and ending on the date the factfinding proceeding is completed;

(b) the areas or reservoirs from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective percentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservoir, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservoir;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report.

Reports.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, \$137,867,000, to remain available until September 30, 1990.

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa County, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona.

Arizona.
Contracts.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: *Provided*, That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: *Provided further*, That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: *Provided further*, That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, \$86,668,000, to remain available until expended, as authorized by law: *Provided*, That a grant of \$2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495: *Provided further*, That notwithstanding any other provision of law, a grant of \$3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of \$1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for reimbursement to other appropriation accounts from which funds were transferred in the preceding fiscal years for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", \$1,329,488,000 to remain available for obligation until September 30, 1990, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 4601-6a): *Provided*, That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990: *Provided further*, That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, \$225,518,000, to remain available until expended, of which \$33,914,000 is for construction and acquisition of buildings and other facilities; and \$191,604,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1989 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed \$75,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further*, That notwithstanding any other provision of this Act or any other provision of law, there is authorized and appropriated out of the Highway Trust Fund (other than the Mass Transit Account) \$5,333,000 of contract authority to be transferred to the Forest Service for road construction to Forest Development Road Standards

to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided further*, That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further*, That \$5,333,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account) as authorized and appropriated above is hereby made available to liquidate the obligations incurred against the contract authority as provided for in this Act.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, \$63,805,000 to be derived from the Land and Water Conservation Fund, to remain available until expended and \$400,000 for acquisition of land and interests therein and near the White Salmon National Recreational River, Klickitat County, Washington, described as Government lot 2, southwest quarter of the northwest quarter, section 18, township 4 north range 11 east, Willamette Meridian, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

Notwithstanding any other provision of law or order based thereon, if requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: township 10 north, range 19 east, section 24, southeast quarter northeast quarter, east half southeast quarter, and southwest quarter southeast quarter) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of the Shay Creek parcel for private holdings of equal value.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

SEC. 1. (a) For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation or otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiatives", which maps are on file with Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisi-

New Hampshire
Forest
Management
Initiatives Act of
1988.
Environmental
protection.
Gifts and
property.

tion such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

SEC. 2. (a) To the extent deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)") to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests, The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

Classified
information.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

SEC. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

Conservation.

SEC. 4. All lands acquired by the Secretary under authority of or pursuant to this Act shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary management emphasis shall be the sustained yield of forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such federally-owned lands.

Reports.

Contracts.
State and local
governments.

SEC. 5. In furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

SEC. 6. Of the amount provided herein, \$5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

TONGASS TIMBER SUPPLY FUND

for necessary expenses for the Tongass National Forest pursuant to section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539d(a)), as amended, \$35,999,000, to remain available until expended.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE**(RESCISSION)**

of the funds currently available and unobligated in this account, \$35,999,000 is hereby rescinded.

ACQUISITION OF LANDS FOR NATIONAL FORESTS**SPECIAL ACTS**

for acquisition of lands within the exterior boundaries of the Grand, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, \$6,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

for acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1947, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

for necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section (b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

for expenses authorized by 16 U.S.C. 1643(b), \$90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 200 passenger motor vehicles of which ten will be used primarily for law enforcement purposes and of which 190 shall be for replacement only, of which acquisition of 165 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 59 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold,

with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed \$100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of \$400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be transferred to the National Forest System appropriation for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided*, That not less than \$47,561,000 shall be made available to the Forest Service for obligation in fiscal year 1989 from the Timber Salvage Sales Fund appropriation: *Provided further*, That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of the law, none of the funds available under this, or any other Act shall be obligated or expended to adjust annual recreational residence fees except on a four-year phased in basis commencing January 1, 1989.

Funds available to the Forest Service shall be available to conduct a program of not less than \$1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions under the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with the various States, and private, nonprofit organizations to continue the recreation and wildlife and fish Challenge Cost-share Programs.

Contracts.

None of the funds made available to the Forest Service in this Act shall be expended for the construction of the Gasquet-Orleans (G-O) road.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of \$791,000,000, the 1988 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: *Provided*, That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: *Provided further*, That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: *Provided further*,

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That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further*, That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: *Provided further*, That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource management; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: *Provided further*, That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Notwithstanding the lack of authorization for payment from appropriated funds in older supplements to cooperative right-of-way construction and use agreements, the Forest Service is authorized and directed to make cash payments in lieu of payment through collection rights where it determines that an unreasonable delay has occurred or is likely to occur before the collection rights can be exercised or offsetting construction performed. In addition, the Service is authorized and directed to make cash payment of excess cost imbalances carried by cooperators which the Government has not repaid within a reasonable time period through the exercise of collection rights or by other means.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System Lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, \$1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., \$575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: *Provided*, That projects selected

pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act.

The first paragraph under this head in Public Law 100-202 is amended by striking "and \$525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "\$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, \$135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and \$200,000,000 are appropriated for the fiscal year beginning October 1, 1990": *Provided*, That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed \$15,500,000: *Provided further*, That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 9).

101 Stat.
1329-240.

For the purposes of the sixth proviso under this head in Public Law 99-190, funds derived by the Tennessee Valley Authority from its power program are hereafter not to be precluded from qualifying for all or part of any cost-sharing requirement, except to the extent that such funds are provided by annual appropriations Acts: *Provided*, That unexpended balances of funds made available in the "Energy Security Reserve" account in the Treasury for The Clean Coal Technology Program by the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in section 1(d) of Public Law 99-190, shall be merged with this account: *Provided further*, That for the purposes of the sixth proviso in Public Law 99-190 under this heading, funds provided under section 306 of Public Law 93-32 shall be considered non-Federal: *Provided further*, That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the second session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative Provisions, Department Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate.

42 USC 5903d
note.

Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, \$380,595,000, to remain available until expended, of which \$249,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and pursuant to section 111(b)(1)(B) of the Energy Re-

organization Act of 1974, as amended, of the amount appropriated under this head, \$3,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and \$9,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and \$4,500,000 shall be available for continued construction of DOE Fossil Energy building B26: *Provided*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, \$37,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further*, That 30 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1989, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, \$185,071,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, \$372,502,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1989 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided*, That \$200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further*, That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, \$3,000,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts without section 111(b)(2) of such Act being applicable: *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1988, and of which \$10,000,000 shall be available for a grant for the energy demonstration and research facility at Northwestern University designated under this head in Public Law 100-202 and as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further*, That the facility may be expanded to

encompass space for life sciences in addition to that for material sciences.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, \$21,372,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, \$6,154,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), \$173,421,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), \$242,000,000, to remain available until expended: *Provided*, That an additional \$91,555,000 shall be made available until expended beginning October 1, 1989: *Provided further*, That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve.

Effective date.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$62,856,000 of which \$1,000,000 for computer operations shall remain available until September 30, 1990.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or

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otherwise generated by sale of products in connection with project of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts and agreements: *Provided further*, That the remainder of revenues and the making of such payments shall be covered into the Treasury from miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 90 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding 31 U.S.C. 3302, funds derived from the sale of assets as a result of defaulted loans made under the Department of Energy Alcohol Fuels Loan Guarantee program, or any other funds received in connection with this program, shall be credited to the Biomass Energy Development account, and shall be available solely for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program for loans guaranteed prior to January 1, 1987.

Unobligated balances available in the "Alternative fuels production" account may be used for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program, subject to the determination by the Secretary of Energy that such unobligated funds are needed for carrying out the purposes of the Alternative Fuels Production program: *Provided*, That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987: *Provided further*, That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuels Loan Guarantee reserve has been exhausted.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXIII and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles; aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; \$1,020,106,000, together with payments received during

fiscal year pursuant to 42 U.S.C. 300cc-2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further*, That \$15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further*, That of the funds provided, \$2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed \$25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, \$2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1990.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, \$61,668,000, to remain available until expended: *Provided*, That the Indian Health Service may hold in reserve a sum not to exceed \$600,000 as a contingency for site acquisition at the Kotzebue Hospital: *Provided further*, That of funds appropriated in the fiscal year 1987 continuing resolution for

the construction of detoxification facilities for Indian youth, not to exceed \$600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington: *Provided further*, That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review

25 USC 1681.

42 USC 254m
note.

approval of the Committees on Appropriations: *Provided further*, That funds provided in this Act may be used to reimburse the Indian Health Service travel costs of spouses who accompany respective Indian Health Service medical professional employees to site of employment as part of the recruitment process: *Provided further*, That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206), as amended by Public Law 100-202 (101 Stat. 1329-246), 25 USC 450g, is amended by inserting after the word "claims" the words "by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis under other circumstances as permitted by Federal law or regulations", and is further amended by inserting after the word "performance" the words "prior to, including, or after December 22, 1987," and is further amended by inserting after the word "investigations," the words "an Indian tribe," and is further amended by adding after the word "agreement" and before the period the words ": *Provided*, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than a facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor": *Provided further*, That one of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health services of the Indian Health Service: *Provided further*, That notwithstanding any other provision of law, the Secretary is authorized to undertake a demonstration project at Kayenta, Arizona, the Navajo Indian Reservation, to construct 10 housing units on Federal land, i.e., three one-bedroom, four two-bedroom, and three three-bedroom units, under an agreement with a non-profit, Indian controlled community development corporation, and in return for a Federal grant of \$200,000, units which meet or exceed Federal construction standards are to be built, operated, maintained in adequate condition and, for a period of 20 years following completion of construction, offered for rent to Federal employees. First preference for rental is to be given to essential Indian Health Service (IHS) employees as determined in accordance with IHS quarters management policies. Rental rates charged by the owner shall be established by the same method as would be used if the units were Federally owned. Navajo Area IHS guidelines for occupant conduct and responsibility in Federal quarters shall apply unless stricter standards are mutually adopted: *Provided further*, That notwithstanding any other provision of law, there are 170 village built clinics authorized to be operated in Alaska.

Contracts.

Arizona.
Housing.
Contracts.
Community
development.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, as amended by Public Law

100-297, \$71,553,000, of which \$52,748,000 shall be for part A and \$15,807,000 shall be for parts B and C: *Provided*, That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1990.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, \$27,323,000, to remain available until expended, for operating expenses of the Commission: *Provided*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Institute of American Indian and Alaska Native Culture and Arts Development as authorized by Public Law 99-498, \$3,094,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A), of which not to exceed \$250,000 for Federal matching contributions shall be paid to the Institute endowment fund.

Section 1513 of the Higher Education Amendments of 1986 (20 U.S.C. 4420) is amended—

(1) by striking out “The Institute” and inserting in lieu thereof “(a) TAX STATUS.—The Institute”,

(2) by inserting “; TORT LIABILITY” after “STATUS” in the section heading, and

(3) by adding at the end thereof the following new subsection

“(b) TORT LIABILITY.—

Claims.

“(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28, United States Code.

“(2) For purposes of chapter 171 of title 28, United States Code, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

“(3) For purposes of chapter 171 of title 28, United States Code, the President of the Institute shall be deemed the head of the Agency.”.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed \$100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; \$211,240,000, of which not to exceed \$1,206,000 for the instrumentation program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of \$125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, \$5,305,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed \$10,000 for services as authorized by 5 U.S.C. 3109, \$20,735,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Contracts.

CONSTRUCTION

For necessary expenses for construction, \$8,655,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed \$150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative

expenses incident thereto, as authorized by the Act of March 2, 1937 (50 Stat. 51), as amended by the public resolution of April 1, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C 5901-5902); purchase, rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, \$37,981,000, including \$2,370,000 for the special exhibition program, of which not to exceed \$2,320,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, \$750,000 remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Contracts.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles, and services as authorized by 5 U.S.C. 3109, \$4,240,000.

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars \$300,000, to remain available until September 30, 1990: *Provided*, That such sums shall be transferred only to the extent matched on a three-to-one basis with private funds.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, \$141,890,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups

and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided*, That none of the funds available to the National Endowment for the Arts may be used to implement a peer panel review process different from that in place as of December 31, 1987.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$27,200,000, to remain available until September 30, 1990, to the National Endowment for the Arts, of which \$18,200,000 shall be available for purposes of section 5(l): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$124,300,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, \$28,700,000, to remain available until September 30, 1990, of which \$16,700,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, \$22,270,000, including not to exceed \$250,000 as authorized by 20 U.S.C. 965(b): *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further*, That the Museum Services Board shall not meet more than three times during fiscal year 1989.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), \$475,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, \$5,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, \$1,778,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, \$2,962,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), \$28,000 to remain available until September 30, 1990.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, \$2,334,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, \$3,175,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388 as amended, \$2,244,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.
Records.
Public
information.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for

Alaska.
National Forest
System.
National
Wilderness
Preservation
System.

any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulfur, gilsonite, or geothermal resources on Federal lands within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided*, That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further*, That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about the inventorying of energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further*, That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments

Hazardous
materials.

Contracts.

of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contract would decrease Federal expenditures and would produce comparable or superior results: *Provided further*, That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1989 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however*, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing

Employment and unemployment.

Contracts. State and local governments. Disaster assistance.

16 USC 1604 note.

Wages.
Government
organization and
employees.

plan: *Provided further*, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

SEC. 315. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest or wildland firefighters premium pay under the provision of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay that would have been paid to such forest or wildland firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the fiscal year ending September 30, 1989.

(b) Notwithstanding the provisions of subsection (a), no forest or wildland firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "wildland forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest or wildland wildfire emergencies.

5 USC 5911 note.

SEC. 316. Section 320 of Pubic Law 98-473 (98 Stat. 1874), is amended by deleting the colon and all that follows the words "quarters of that agency" and inserting a period (.) in place of the colon.

Forests and
forest products.

SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (*sequoiadendron giganteum*) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Wages.
Government
organization and
employees.
18 USC 208 note.

SEC. 318. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 319. Notwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertise-

ment and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June, 1988 and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be subject to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond southwest quarter, northeast quarter of section 21, township 36 south, range 10 west, Willamette Meridian.

SEC. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) is in effect, and notwithstanding the injunction issued pursuant to the judgment in *National Wildlife Federation, et al. v. United States Forest Service, et al.* (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F. 2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement: *Provided*, That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts: *Provided further*, That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: *Provided further*, That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement.

Forests and
forest products.

SEC. 322. Unobligated balances remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Louisiana.

SEC. 323. (a) Subject to valid existing rights, on the date of enactment of this section deposits of quartz mineral within the Ouachita National Forest in the State of Arkansas shall no longer be subject to location and entry under the General Mining Law of 1872 (17 Stat. 91), as amended, and all such deposits shall hereafter be disposed of under the same conditions as are applicable to common varieties of mineral materials on such lands under the Materials Act of 1947 (61 Stat. 681), as amended: *Provided*, That fifty percent of the moneys received pursuant to this section shall be paid by the Secretary of the Treasury to the State of Arkansas, to be

Minerals and
mining.
Arkansas.
Waste disposal.

expended as the State may prescribe for the benefit of the public schools and public roads of the counties in which the Ouachita National Forest is situated.

ulations. (b) The Secretary of Agriculture shall prescribe rules and regulations for the disposal of quartz mineral from the Ouachita National Forest.

SEC. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

Approved September 27, 1988.

LEGISLATIVE HISTORY—H.R. 4867:

HOUSE REPORTS: No. 100-713 (Comm. on Appropriations) and No. 100-862 (Comm. of Conference).

SENATE REPORTS: No. 100-410 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 29, considered and passed House.

July 13, considered and passed Senate, amended.

Sept. 8, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 27, Presidential statement.

Public Law 100-447
100th Congress

An Act

making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Sept. 27, 1988
[H.R. 4586]

As it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

for acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and construction and operation of facilities in support of the functions of the Commander in Chief, \$927,292,000, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed \$95,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

for acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,576,516,000, of which amount, \$38,080,000 for the CAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed \$129,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

COAST GUARD SHORE FACILITIES

For construction, rebuilding and improvement of shore facilities of the United States Coast Guard, \$50,300,000 to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,225,926,000, to remain available until September 30, 1993: *Provided*, That of this amount, not to exceed \$112,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$679,533,000, to remain available until September 30, 1993: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, \$19,548,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, \$492,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

construction, acquisition, expansion, rehabilitation, and revision of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$229,158,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

construction, acquisition, expansion, rehabilitation, and revision of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$158,508,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, ARMY RESERVE

construction, acquisition, expansion, rehabilitation, and revision of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$85,958,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVAL RESERVE

construction, acquisition, expansion, rehabilitation, and revision of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$60,900,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

construction, acquisition, expansion, rehabilitation, and revision of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, \$70,600,000, to remain available until September 30, 1993.

FAMILY HOUSING, ARMY

expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension, alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest on construction, and insurance premiums, as authorized by law, as follows: for construction, \$197,278,000; for Operation and maintenance, and debt payment, \$1,330,324,000; in all \$1,527,602,000: *Provided*, the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, NAVY AND MARINE CORPS

expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion,

sion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$244,181,000; for Operation and maintenance, and for debt payment, \$554,988,000; in all \$799,169,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1993: *Provided further*, That of this amount, not to exceed \$50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, \$175,685,000; for Operation and maintenance, and for debt payment, \$735,266,000; in all \$910,951,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, \$513,000; for Operation and maintenance, \$20,187,000; in all \$20,700,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1993.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), \$2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than \$25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

Contracts.
Records.
Public
information.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1989, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundredth Congress.

Reports.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1989, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1989 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

cc. 123. None of the funds appropriated in this Act, except for the Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

cc. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

10 USC 2860
note.

cc. 125. Notwithstanding any other provision of law, the Secretary of Defense shall include in the fiscal year 1990 program a legislative proposal to authorize the installment purchase of family housing units, and the budget request for fiscal year 1990 shall include such sums as necessary to implement a pilot program for units not to exceed 3,000 units.

Housing.

cc. 126. Of the funds appropriated in this Act for Operations and Maintenance of Family Housing, no more than \$30,000,000 may be obligated for contract cleaning of family housing units.

cc. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

cc. 128. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1989.

cc. 129. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

cc. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided*, That the purpose of the National Test Bed should be to simulate, evaluate, and demonstrate architecture and technologies that are technically feasible, cost-effective at the margin, and survivable.

cc. 131. Such sums as may be necessary for fiscal year 1989 pay increases for programs funded by this Act shall be absorbed within the amounts appropriated in this Act.

Approved September 27, 1988.

LEGISLATIVE HISTORY—H.R. 4586:

HOUSE REPORTS: No. 100-620 (Comm. on Appropriations) and No. 100-912 (Comm. on Conference).

SENATE REPORTS: No. 100-380 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 134 (1988):

May 18, considered and passed House.

June 15, considered and passed Senate, amended.

Sept. 14, House agreed to conference report; receded and concurred in Senate amendment, in others with amendments; and insisted on disagreement to another Senate amendment. Senate agreed to conference report; concurred in certain House amendments and receded from another.

KEY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 27, Presidential statement.

Public Law 100-448
100th Congress

An Act

Sept. 28, 1988
[H.R. 2342]

To authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Coast Guard
Authorization
Act of 1988.
Maritime
affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coast Guard Authorization Act of 1988”.

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) **NECESSARY EXPENSES.**—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) **OPERATION AND MAINTENANCE.**—For operation and maintenance of the Coast Guard, \$1,949,813,000 for fiscal year 1988 and \$2,100,506,000 for fiscal year 1989.

(2) **ACQUISITION AND CONSTRUCTION.**—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$277,893,000 for fiscal year 1988 and \$348,000,000 for fiscal year 1989, to remain available until expended.

(3) **RESEARCH AND DEVELOPMENT.**—For research, development, test, and evaluation, \$20,119,000 for fiscal year 1988 and \$19,000,000 for fiscal year 1989, to remain available until expended.

(4) **RETIRED PAY AND MEDICAL CARE.**—For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman’s Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents’ Medical Care Act, \$386,700,000 for fiscal year 1988 and \$410,800,000 for fiscal year 1989, to remain available until expended.

(5) **ALTERATION OR REMOVAL OF BRIDGES.**—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, \$8,500,000 for fiscal year 1989.

(b) **TRANSFER OF FUNDS APPROPRIATED.**—If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

STRENGTH FOR ACTIVE DUTY PERSONNEL.—The Coast Guard is authorized a strength for active duty personnel of 39,121 for fiscal year 1988 and 39,121 for fiscal year 1989. The authorized strength shall not include members of the Coast Guard Ready Reserve or other personnel to active duty under the authority of section 712 of title 14, United States Code.

AVERAGE MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) **RECRUIT AND SPECIAL TRAINING.**—For recruit and special training, 3,600 student-years for fiscal year 1988 and 3,600 student-years for fiscal year 1989.

(2) **FLIGHT TRAINING.**—For flight training, 132 student-years for fiscal year 1988 and 132 student-years for fiscal year 1989.

(3) **PROFESSIONAL TRAINING.**—For professional training in military and civilian institutions, 430 student-years for fiscal year 1988 and 430 student-years for fiscal year 1989.

(4) **OFFICER ACQUISITION.**—For officer acquisition, 950 student-years for fiscal year 1988 and 950 student-years for fiscal year 1989.

4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

IN GENERAL.—Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal years 1988 and 1989 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

NOTICE TO CONGRESS.—A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

- (1) describing the proposed transfers;
- (2) stating the reasons for the determination under subsection (a); and
- (3) describing the purposes for which the amounts to be transferred will be used.

5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD.

MAINTENANCE OF LOGISTICS CAPABILITY.—

(1) **STATEMENT OF NATIONAL INTEREST.**—It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2) **SUBMISSION OF LIST OF NECESSARY ACTIVITIES; LIMITATION ON CONTRACTING.**—(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and

10 USC 2304
note.

Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-Government personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by non-Government personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to the date of the enactment of this Act, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b) PROHIBITION ON CONTRACTING FOR PERFORMANCE OF LISTED ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), performance by non-Government personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) WAIVER OF PROHIBITION.—The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) EFFECTIVE DATE OF WAIVER; SUBMISSION OF STATEMENT.—A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) SUBMISSION OF LIST OF ACTIVITIES CONTRACTED FOR PERFORMANCE.—At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

(d) EMPLOYMENT OF LOCAL RESIDENTS TO PERFORM CONTRACTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal years 1988 and 1989 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may

State and local governments.

waive this subsection in the interest of national security or economic efficiency.

(2) **LOCAL RESIDENT DEFINED.**—As used in this subsection, the term “local resident” means a resident of a State described in paragraph (1), and any individual who commutes daily to a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) TRANSFERS TO AND EXPENDITURES FROM BOAT SAFETY ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—

(A) **INCREASE IN MAXIMUM TRANSFER AND MAXIMUM AMOUNT IN ACCOUNT.**—Subclauses (I) and (II) of subsection 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitations on transfers to and amounts in the Boat Safety Account) are each amended by striking “for Fiscal Year 1987 only and \$45,000,000 for each Fiscal Year thereafter” and inserting in lieu thereof “for each of fiscal years 1989 and 1990 and \$70,000,000 for each fiscal year thereafter”.

26 USC 9503

(B) **TECHNICAL AMENDMENT.**—Subparagraph (E) of section 9503(c)(4) of the Internal Revenue Code of 1986 (relating to the amount of payments to the Aquatic Resources Trust Fund) is amended by striking the second sentence.

(2) **EXTENSION OF EXPENDITURE AUTHORITY.**—Subsection (c) of section 9504 of the Internal Revenue Code of 1986 (relating to expenditures from the Boat Safety Account) is amended—

(A) by striking “before April 1, 1989,” and inserting “before April 1, 1994,”; and

(B) by striking “(as in effect on June 1, 1984)” and inserting “(as in effect on October 1, 1988)”.

(3) **CORRECTION OF CLERICAL ERRORS.**—Subclauses (I) and (II) of section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 are each amended—

(A) by striking the quotation marks following “\$60,000,000”; and

(B) by striking the semicolon before the period.

(b) BOATING SAFETY PROGRAMS.—

(1) AUTHORIZATION OF CONTRACT SPENDING.—

(A) **STATE RECREATIONAL BOATING SAFETY PROGRAM ASSISTANCE.**—Subsection (a) of section 13106 of title 46, United States Code (relating to authorization of contract spending for recreational boating safety programs), is amended as follows:

(i) The first sentence of subsection (a) is amended to read as follows: “(1) Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to ½ of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).”

(ii) The following is added at the end of subsection (a):

“(2) The Secretary shall use not less than one percent and not more than two percent of the amount appropriated each fiscal year for State recreational boating safety programs under this chapter to

pay the costs of investigations, personnel, and activities related to administering those programs.”.

(B) CONFORMING AMENDMENT.—Subsection (d) of section 7 of the Coast Guard Authorization Act of 1986 (Public Law 99-640) is repealed.

46 USC 13103
note.

(2) EXPENDITURES FOR COAST GUARD SERVICES.—Subsection (c) of section 13106 of title 46, United States Code, is amended—

(A) in the first sentence by striking “for Fiscal Year 1987 and one-third for each Fiscal Year thereafter.”; and

(B) by inserting after the first sentence the following: “Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a).”.

(3) CLARIFICATION OF MATCHING RESTRICTIONS.—Section 13102(b) is amended in the first sentence by striking “from sources (except” and inserting in lieu thereof “(except amounts from”.

(4) TECHNICAL AMENDMENT.—Section 13102(a) of title 46, United States Code, is amended in the first sentence by striking “1954.” and inserting in lieu thereof “1986”.

(5) TECHNICAL AMENDMENT.—Paragraph (4) of section 13102(a) of title 46, United States Code, is amended to read as follows:

State and local
governments.
Reports.

“(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying out the State recreational boating safety program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.”.

(6) TECHNICAL AMENDMENT.—Subsection (c) of section 13106 of title 46, United States Code, is amended in the first sentence by striking “1954” and inserting “1986”.

16 USC 777.

(C) SPORT FISH RESTORATION PROGRAMS.—

(1) STATE ALLOCATION OF ASSISTANCE BETWEEN MARINE AND FRESHWATER FISH PROJECTS.—Subsection (b) of the first section of the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes” (64 Stat. 430; 16 U.S.C. 777 et seq.) is amended to read as follows:

“(b) ALLOCATION OF AMOUNTS BY COASTAL STATES BETWEEN MARINE FISH PROJECTS AND FRESHWATER FISH PROJECTS.—

“(1) IN GENERAL.—Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this Act between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

“(2) PRESERVATION OF FRESHWATER PROJECT ALLOCATION AT 1988 LEVEL.—(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

“(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State

under this Act is less than the amount apportioned to the State under this Act for fiscal year 1988.

“(3) **COASTAL STATE DEFINED.**—As used in this subsection, the term ‘coastal State’ means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.”.

(2) **STATE USE OF CONTRIBUTIONS.**—Such Act is further amended by adding at the end the following:

“SEC. 13. STATE USE OF CONTRIBUTIONS.

16 USC 777L.

“A State may use contributions of funds, real property, materials, and services to carry out an activity under this Act in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used.”.

Real property.

(3) **EXPENDITURES FROM TRUST FUND.**—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking “(as in effect on June 1, 1984)” and inserting “(as in effect on October 1, 1988)”.

26 USC 9504.

(d) **SURVEY OF FUEL USE BY RECREATIONAL VESSELS.**—

46 USC 13101
note.

(1) **IN GENERAL.**—The Secretary of Transportation and the Secretary of the Interior shall jointly conduct a survey of—

(A) the number, size, and primary uses of recreational vessels operating on the waters of the United States; and

(B) the amount and types of fuel used by those vessels.

(2) **AUTHORIZATION OF CONTRACTS.**—The Secretary of Transportation and the Secretary of the Interior may enter into contracts for the performance of a survey pursuant to this subsection.

(3) **REPORT.**—The Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate which describes the results of the survey conducted pursuant to this section not later than November 15, 1992.

(4) **FUNDING.**—Activities under this subsection may be carried out—

(A) using amounts available to the Secretary of the Interior for administrative expenses under the Act entitled “An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes” (64 Stat. 430; 16 U.S.C. 777 et seq.); and

(B) subject to appropriations, using amounts available to the Secretary of Transportation under section 13106(a)(1) of title 46, United States Code (as amended by this Act).

(e) **EFFECTIVE DATE.**—This section shall take effect October 1, 1988.

16 USC 777 note.

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

“(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

“(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

“(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.”.

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) **IN GENERAL.**—In exchange for parcels of land, or any buildings or improvements located in and about Lake Worth Inlet in Palm Beach County, Florida, or in exchange for construction, improvements, or services to land or buildings in such area, the Secretary of the department in which the Coast Guard is operating may offer for consideration, and transfer, in whole or in part, any other parcels of land, and any buildings and improvements, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be transferred shall be as described in such surveys as may be satisfactory to the Secretary.

Contracts.

(b) **PROCEDURE.**—Each contracting action under this section shall be conducted in accordance with competitive bidding procedures prescribed by section 2304 of title 10, United States Code. Property may not be exchanged under this section for less than its fair market value or reasonably comparable value in property, construction, improvements, or services.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: “The Committee terminates on September 30, 1992.”.

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) **IN GENERAL.**—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

“§ 95. Civilian agents authorized to carry firearms

Regulations.

“Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.”.

(b) **CONFORMING AMENDMENT.**—The table of sections for such chapter is amended by adding at the end the following new item:

“95. Civilian agents authorized to carry firearms.”.

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (k) by striking “and (c)” and inserting “(c), and (n)”; and

(2) by adding at the end the following new subsection:

“(n)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

“(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.”.

Contracts.

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

“(b) Each cadet shall sign an agreement with respect to the cadet’s length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

“(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

“(2) That upon graduation from the Coast Guard Academy the cadet—

“(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

“(B) will serve on active duty for at least five years immediately after such appointment.

“(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

“(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

“(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

“(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

“(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

“(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is

separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

Regulations.

"(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

Children and youth.

"(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian."

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§513. Retroactive payment of pay and allowances delayed by administrative error or oversight

Regulations.

"Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight."

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight."

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v)) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

Safety.

"(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head

and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.”.

SEC. 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) **IN GENERAL.**—Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting “or within the Coast Guard” after “title 32”;

(2) in subsection (g), by striking “or the Secretary of a military department” and inserting in lieu thereof “, the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate”.

(b) **AFFECTED CLAIMS.**—The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred. 10 USC 1054 note.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946.

33 USC 59x.

(a) **WATERS DECLARED NONNAVIGABLE.**—The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) **WATERS DESCRIBED.**—The waters referred to in subsection (a) are a drainage canal which— New Jersey.

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking “on and under” the first place it appears and inserting in lieu thereof “on, under, and over”.

SEC. 18. BRIDGES DEEMED UNREASONABLE OBSTRUCTIONS TO NAVIGATION.

Notwithstanding any other provision of law, each of the following bridges is deemed to be an unreasonable obstruction to navigation:

(1) **EAST HANNIBAL, ILLINOIS.**—The Mississippi River Railroad Bridge between East Hannibal, Illinois, and Hannibal, Missouri, mile 309.9, Upper Mississippi River. Missouri.

(2) **PASCAGOULA, MISSISSIPPI.**—The CSX (L&N) Railroad Bridge in Pascagoula, Mississippi.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to accomplish the Coast Guard's antisubmarine warfare (ASW) mission responsibilities in the Maritime Defense Zone after considering all available options, including those fully

developed by the Navy, on how ASW equipment will be installed and used on Coast Guard cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) **IN GENERAL.**—Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking “members from” each place it appears and inserting in lieu thereof “representatives of”.

46 USC 13110
note.

(b) **IMPLEMENTATION.**—The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following:

Highways. “Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.”.

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

Reports.

President of U.S.
Defense and
national
security.
Reports.

SEC. 23. ICEBREAKER STUDY.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than October 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking

vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

31 USC 1105
note.

(a) **OPINION OF CONGRESS.**—It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) **SUBMISSION OF 2-YEAR BUDGET BY PRESIDENT.**—The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) **REPORT.**—Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing—

(1) the Secretary's views on the advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle;

(2) the Secretary's plans for converting to a 2-year budget cycle; and

(3) a description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget."

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) **IN GENERAL.**—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized

President of U.S.
Contracts.

until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.”

(b) **CONFORMING AMENDMENT.**—The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

“665. Restriction on construction of vessels in foreign shipyards.”.

SEC. 27. HELICOPTER PRESENCE IN CHARLESTON, SOUTH CAROLINA.

(a) **ESTABLISHMENT OF HELICOPTER PRESENCE.**—Not later than three months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall have initiated action to establish a full-time permanent base at Charleston, South Carolina, for the operation of at least one HH-65 short-range recovery helicopter, together with necessary support and operational personnel. The establishment of this base shall be completed in 24 months. The Secretary shall ensure that establishing and maintaining this base shall not result in a relocation of helicopters assigned to a Coast Guard air station as of July 13, 1988.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to the funds authorized to be appropriated under section 2 of this Act, \$10,000,000 is authorized to be appropriated for fiscal year 1989 to establish and operate the Charleston, South Carolina, helicopter presence.

SEC. 28. GRANT OF RIGHT OF FIRST REFUSAL TO GRAND HAVEN, MICHIGAN, TO CERTAIN PROPERTY USED BY THE COAST GUARD.

(a) **RIGHT OF FIRST REFUSAL.**—The Secretary of the department in which the Coast Guard is operating shall transfer without consideration to the city of Grand Haven, Michigan, the right that, if the Coast Guard ceases to use the property described in subsection (c)(1) as a Coast Guard facility or such property is determined to be excess, the city of Grand Haven shall have the first opportunity to purchase the property described in subsection (c)(1).

(b) **PURCHASE PRICE OF PROPERTY.**—The right referred to in subsection (a) shall provide that the property may be purchased by the city of Grand Haven, Michigan, for fair market value less—

(1) $\frac{2}{3}$ of the difference between—

(A) the appraised value of the property described in subsection (c)(1) after improvements are made but before occupancy by the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(1), determined as of the date such property was first acquired by the United States for use by the Coast Guard but before the Coast Guard takes occupancy; less

(2) the difference between—

(A) the appraised value of the property described in subsection (c)(1), determined as of the date the property was first acquired for the use of the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(2), determined as of the date the property was transferred by the United States to the city of Grand Haven, Michigan.

(c) **DESCRIPTION OF PROPERTY.**—

(1) **PROPERTY USED AS COAST GUARD FACILITY.**—The property referred to in subsections (a), (b)(1) (A) and (B), and (b)(2)(A) is that property known as the old Board of Light and Power office

and service operations facility, located at 650 Harbor Avenue, Grand Haven, Michigan.

(2) OTHER PROPERTY.—The property referred to in subsection b)(2)(B) is that property in the city of Grand Haven, Michigan, more particularly described as: That part of Government Lot 3 in section 19, town 8 north, range 16 West, described as beginning at a point called "A" located as follows: Commence on the east line of said section 19, 2,290.35 feet south of the east quarter corner of said section, thence west 663.04 feet, thence south 2 degrees west 197.00 feet to a point of beginning "A", thence south 63 degrees 45 minutes west 200.00 feet, thence south 26 degrees 15 minutes east 200.00 feet to the north pier on the Grand River, thence north 63 degrees 45 minutes east 250.00 feet along such pier line, thence north 23 degrees 20 minutes west to a point 61.05 feet north 63 degrees 45 minutes east of point "A", thence south 63 degrees 45 minutes west to the point of beginning, called "A", also known and sometimes described as Tax Parcel No. 70-03-19-42-015, being located in the south-east quarter of said section 19, town 8 north, range 16 west, bounded on the southerly boundary thereof by the waters of the Grand River, and bounded on the northerly edge thereof by Main Street" in the city of Grand Haven.

29. ASSISTANCE TO FILM PRODUCERS.

IN GENERAL.—Title 14, United States Code, is amended by striking after section 658 the following:

9. Assistance to film producers

(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in a way as to give assistance to film producers. As used in this section, 'film producers' includes commercial or noncommercial producers of material for cinema, television, or videotape.

(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, shall estimate such costs in advance, and such costs shall be paid by the Secretary by the film producers who request such assistance, in amounts determined by the Secretary. The Secretary may waive such costs, not exceeding \$200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred."

CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking after the item relating to section 658 the following:

Assistance to film producers."

30. USE OF COAST GUARD AUXILIARY FOR NONEMERGENCY ASSISTANCE.

IN GENERAL.—Section 88(b) of title 14, United States Code, is amended—

(1) by striking "The Coast Guard" and inserting in lieu thereof "(1) Subject to paragraph (2), the Coast Guard"; and

(2) by adding at the end the following:

“(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, is rendering aid under this subsection in nonemergency cases.”.

(b) CONFORMING AMENDMENT.—Section 113 of the Coast Guard Authorization Act of 1982 (14 U.S.C. 88 note) is amended by inserting “(other than by the Coast Guard Auxiliary)” after “interference”.

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 2342 (S. 1459):

HOUSE REPORTS: No. 100-154 (Comm. on Merchant Marine and Fisheries) and No. 100-855 (Comm. of Conference).

SENATE REPORTS: No. 100-98 accompanying S. 1459 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 8, considered and passed House.

Oct. 13, considered and passed Senate, amended, in lieu of S. 1459.

Dec. 18, House concurred in Senate amendment with an amendment.

Vol. 134 (1988): Sept. 14, House agreed to conference report.

Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 28, Presidential statement.

Public Law 100-449
100th Congress

An Act

To implement the United States-Canada Free-Trade Agreement.

Sept. 28, 1988

[H.R. 5090]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “United States-Canada Free-Trade Agreement Implementation Act of 1988”.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. Purposes.

TITLE I—APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT AND RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW

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Sec. 402. Amendments to title 28, United States Code.

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Sec. 405. Organizational and administrative provisions regarding the implementation of chapters 18 and 19 of the Agreement.

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Sec. 407. Testimony and production of papers in extraordinary challenges.

United States-
Canada Free-
Trade
Agreement
Implementation
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Exports.
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19 USC 2112
note.

Sec. 408. Requests for review of Canadian antidumping and countervailing duty determinations.

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TITLE V—EFFECTIVE DATES AND SEVERABILITY

Sec. 501. Effective dates.

Sec. 502. Severability.

19 USC 2112
note.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve and implement the Free-Trade Agreement between the United States and Canada negotiated under the authority of section 102 of the Trade Act of 1974;

(2) to strengthen and develop economic relations between the United States and Canada for their mutual benefit;

(3) to establish a free-trade area between the two nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

19 USC 2112
note.

TITLE I—APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT AND RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW

SEC. 101. APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.

(a) **APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.**—Pursuant to sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves—

(1) the United States-Canada Free-Trade Agreement (hereinafter in this Act referred to as the “Agreement”) entered into on January 2, 1988, and submitted to the Congress on July 25, 1988;

(2) the letters exchanged between the Governments of the United States and Canada—

(A) dated January 2, 1988, relating to negotiations regarding articles 301 (Rules of Origin) and 401 (Tariff Elimination) of the Agreement, and

(B) dated January 2, 1988, relating to negotiations regarding article 2008 (Plywood Standards) of the Agreement; and

(3) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 25, 1988.

President of U.S.

(b) **CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.**—At such time as the President determines that Canada has taken measures necessary to comply with the obligations of the Agreement, the President is authorized to exchange notes with the Government of Canada providing for the entry into force, on or after January 1, 1989, of the Agreement with respect to the United States.

(c) **REPORT ON CANADIAN PRACTICES.**—Within 60 days after the date of the enactment of this Act (but not later than December 15, 1988), the United States Trade Representative shall submit to the

gress a report identifying, to the maximum extent practicable, major current Canadian practices (and the legal authority for such practices) that, in the opinion of the United States Trade Representative—

- (1) are not in conformity with the Agreement; and
- (2) require a change of Canadian law, regulation, policy, or practice to enable Canada to conform with its international obligations under the Agreement.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.

(a) **UNITED STATES LAWS TO PREVAIL IN CONFLICT.**—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is in conflict with any law of the United States shall have effect.

(b) **RELATIONSHIP OF AGREEMENT TO STATE AND LOCAL LAW.**—

- (1) The provisions of the Agreement prevail over—
 - (A) any conflicting State law; and
 - (B) any conflicting application of any State law to any person or circumstance;
 to the extent of the conflict.

(2) Upon the enactment of this Act, the President shall, in accordance with section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c), initiate consultations with the State governments on the implementation of the obligations of the United States under the Agreement. Such consultations shall be held—

President of U.S.

- (A) through the intergovernmental policy advisory committees on trade established under such section for the purpose of achieving conformity of State laws and practices with the Agreement; and
 - (B) with the individual States as necessary to deal with particular questions that may arise.
- (3) The United States may bring an action challenging any provision of State law, or the application thereof to any person or circumstance, on the ground that the provision or application is inconsistent with the Agreement.
- (4) For purposes of this subsection, the term “State law” includes—

- (A) any law of a political subdivision of a State; and
- (B) any State law regulating or taxing the business of insurance.

(c) **EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.**—No person other than the United States shall—

- (1) have any cause of action or defense under the Agreement or by virtue of congressional approval thereof, or
- (2) challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

(d) **INITIAL IMPLEMENTING REGULATIONS.**—Initial regulations necessary or appropriate to carry out the actions proposed in the statement of administrative action submitted under section 101(a)(3) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement. In the case of any implementing action that takes effect after the date of entry into force of the Agreement, initial regula-

tions to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

(e) **CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.**—The provisions of section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply as if the Agreement were an agreement approved under section 2(a) of that Act whenever the President determines that it is necessary and appropriate to amend, repeal, or enact a statute of the United States in order to implement any requirement of, amendment to, or recommendation, finding or opinion under, the Agreement; but such provisions shall not apply to any bill to implement any such requirement, amendment, recommendation, finding, or opinion that is submitted to the Congress after the close of the 30th month after the month in which the Agreement enters into force.

SEC. 103. CONSULTATION AND LAY-OVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

(a) **CONSULTATION AND LAY-OVER REQUIREMENTS.**—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and lay-over requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974, and

(B) the United States International Trade Commission;

Reports.

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor, and

(B) the advice obtained under paragraph (1);

(3) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

Federal
Register,
publication.

(b) **EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.**—No action proclaimed by the President under the authority of this Act, if such action is not subject to the consultation and lay-over requirements under subsection (a), may take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 104. HARMONIZED SYSTEM.

(a) **DEFINITION.**—As used in this Act, the term “Harmonized System” means the nomenclature system established under the International Convention on the Harmonized Commodity Description and Coding System (done at Brussels on June 14, 1983, and the protocol thereto, done at Brussels on June 24, 1986) as implemented under United States law.

Tariff Schedules
of the U.S.

(b) **INTERIM APPLICATION OF TSUS.**—The following apply if the International Convention, and the protocol thereto, referred to in subsection (a) are not implemented under United States law before the Agreement enters into force:

(1) The President, subject to subsection (c), shall proclaim such modifications to the Tariff Schedules of the United States (19 U.S.C. 1202) as may be necessary to give effect, until such time as such Convention and protocol are so implemented, to the rules of origin, schedule of rate reductions, and other provisions that would, but for the absence of such implementation, be proclaimed under the authority of this Act to, or in terms of, the Harmonized System to implement the obligations of the United States under the Agreement.

President of U.S.

(2) Until such time as such Convention and protocol are so implemented, any reference in this Act to the nomenclature of such Convention and protocol shall be treated as a reference to the corresponding nomenclature of the Tariff Schedules of the United States as modified under paragraph (1).

(c) RESTRICTIONS.—

(1) No modification described in subsection (b)(1) that is to take effect concurrently with the entry into force of the Agreement may be proclaimed unless the text of the modification is published in the Federal Register at least 30 days before the date of entry into force.

Federal
Register,
publication.

(2) All modifications proclaimed under the authority of subsection (b)(1) after the Agreement enters into force with respect to the United States are subject to the consultation and lay-over requirements of section 103(a).

SEC. 105. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE.

Subject to section 103 or 104(c), as appropriate, and any other applicable restriction or limitation in this Act on the proclaiming of actions or the issuing of regulations to carry out this Act or any amendment made by this Act, after the date of the enactment of this Act—

(1) the President may proclaim such actions; and

(2) other appropriate officers of the United States Government may issue such regulations;

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

**TITLE II—TARIFF MODIFICATIONS,
RULES OF ORIGIN, USER FEES, DRAW-
BACK, ENFORCEMENT, AND OTHER
CUSTOMS PROVISIONS**

19 USC 2112
note.

SEC. 201. TARIFF MODIFICATIONS.

(a) **TARIFF MODIFICATIONS SPECIFIED IN THE AGREEMENT.—**The President may proclaim—

(1) such modifications or continuance of any existing duty;

(2) such continuance of existing duty-free or excise treatment;

or

(3) such additional duties;

as the President determines to be necessary or appropriate to carry out article 401 of the Agreement and the schedule of duty reductions with respect to Canada set forth in Annexes 401.2 and 401.7 to the Agreement, as approved under section 101(a)(1). For purposes of proclaiming necessary modifications under such Annex 401.2, any article covered under subheading 9813.00.05 (contained in the United States Schedule in such Annex) shall, unless such article is a drawback eligible good under section 204(a), be treated as being subject to any otherwise applicable customs duty if the article, or merchandise incorporating such article, is exported to Canada.

(b) **OTHER TARIFF MODIFICATIONS.**—Subject to the consultation and lay-over requirements of section 103(a), the President may proclaim—

(1) such modifications as the United States and Canada may agree to regarding the staging of any duty treatment set forth in Annexes 401.2 and 401.7 of the Agreement;

(2) such modifications or continuance of any existing duty

(3) such continuance of existing duty-free or excise treatment or

(4) such additional duties;

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada provided for by the Agreement.

(c) **MODIFICATIONS AFFECTING PLYWOOD.**—

(1) The Congress encourages the President to facilitate the preparation, and the implementation with Canada, of common performance standards for the use of softwood plywood and other structural panels in construction applications in the United States and Canada.

(2) The President shall report to the Congress on the incorporation of common plywood performance standards into building codes in the United States and Canada and may implement the provisions of article 2008 of the Agreement when he determines that the necessary conditions have been met.

(3) Any tariff reduction undertaken pursuant to paragraph (2) shall be in equal annual increments ending January 1, 1998, unless those reductions commence after January 1, 1991.

SEC. 202. RULES OF ORIGIN.

(a) **IN GENERAL.**—

(1) For purposes of implementing the tariff treatment contemplated under the Agreement, goods originate in the territory of a Party if—

(A) they are wholly obtained or produced in the territory of either Party or both Parties; or

(B) they—

(i) have been transformed in the territory of either Party or both Parties so as to be subject to a change in tariff classification as described in the Annex rules or to such other requirements as the Annex rules may provide when no change in tariff classifications occurs; and

(ii) meet the other conditions set out in the Annex.

(2) A good shall not be considered to originate in the territory of a party under paragraph (1)(B) merely by virtue of having undergone—

President of U.S.
Reports.

(A) simple packaging or, except as expressly provided by the Annex rules, combining operations;

(B) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(C) any process or work in respect of which it is established, or in respect of which the facts as ascertained clearly justify the presumption, that the sole object was to circumvent the provisions of chapter 3 of the Agreement.

(3) Accessories, spare parts, or tools delivered with any piece of equipment, machinery, apparatus, or vehicle that form part of its standard equipment shall be treated as having the same origin as that equipment, machinery, apparatus, or vehicle if the quantities and values of such accessories, spare parts, or tools are customary for the equipment, machinery, apparatus, or vehicle.

Motor vehicles.

b) TRANSSHIPMENT.—Goods exported from the territory of one Party originate in the territory of that Party only if—

(1) the goods meet the applicable requirements of subsection (a) and are shipped to the territory of the other Party without having entered the commerce of any third country;

(2) the goods, if shipped through the territory of a third country, do not undergo any operation other than unloading, reloading, or any operation necessary to transport them to the territory of the other Party or to preserve them in good condition; and

(3) the documents related to the exportation and shipment of the goods from the territory of a Party show the territory of the other Party as their final destination.

c) INTERPRETATION.—In interpreting this section, the following apply:

(1) Whenever the processing or assembly of goods in the territory of either Party or both Parties results in one of the changes in tariff classification described in the Annex rules, such goods shall be considered to have been transformed in the territory of that Party and shall be treated as goods originating in the territory of that Party if—

(A) such processing or assembly occurs entirely within the territory of either Party or both Parties; and

(B) such goods have not subsequently undergone any processing or assembly outside the territories of the Parties that improves the goods in condition or advances them in value.

(2) Whenever the assembly of goods in the territory of a Party fails to result in a change of tariff classification because either—

(A) the goods were imported into the territory of the Party in an unassembled or a disassembled form and were classified as unassembled or disassembled goods pursuant to General Rule of Interpretation 2(a) of the Harmonized System; or

(B) the tariff subheading for the goods provides for both the goods themselves and their parts;

such goods shall not be treated as goods originating in the territory of a Party.

(3) Notwithstanding paragraph (2), goods described in that paragraph shall be considered to have been transformed in the

territory of a Party and be treated as goods originating in the territory of the Party if—

(A) the value of materials originating in the territory of either Party or both Parties used or consumed in the production of the goods plus the direct cost of assembling the goods in the territory of either Party or both Parties constitute not less than 50 percent of the value of the goods when exported to the territory of the other Party; and

(B) the goods have not subsequent to assembly undergone processing or further assembly in a third country and they meet the requirements of subsection (b).

(4) The provisions of paragraph (3) shall not apply to goods of chapters 61-63 of the Harmonized System.

(5) In making the determination required by paragraph (3)(A) and in making the same or a similar determination when required by the Annex rules, where materials originating in the territory of either Party or both Parties and materials obtained or produced in a third country are used or consumed together in the production of goods in the territory of a Party, the value of materials originating in the territory of either Party or both Parties may be treated as such only to the extent that it is directly attributable to the goods under consideration.

(6) In applying the Annex rules, a specific rule shall take precedence over a more general rule.

President of U.S.

(d) ANNEX RULES.—

(1) The President is authorized to proclaim, as a part of the Harmonized System, the rules set forth under the heading “Rules” in Annex 301.2 of the Agreement. For purposes of carrying out this paragraph—

(A) the phrase “headings 2207-2209” in paragraph 7 of section IV of such Annex 301.2 shall be treated as a reference to headings 2203-2209; and

(B) the phrase “any other heading” in paragraph 11 of section XV in such Annex 301.2 shall be treated as a reference to any other heading of chapter 74 of the Harmonized System.

(2) Subject to the consultation and lay-over requirements of section 103, the President is authorized to proclaim such modifications to the rules as may from time-to-time be agreed to by the United States and Canada.

President of U.S.

(e) AUTOMOTIVE PRODUCTS.—

(1) The President is authorized to proclaim such modification to the definition of Canadian articles (relating to the administration of the Automotive Products Trade Act of 1965) in the general notes of the Harmonized System as may be necessary to conform that definition with chapter 3 of the Agreement.

Regulations.

(2) For purposes of administering the value requirement (as defined in section 304(c)(3)) with respect to vehicles, the Secretary of the Treasury shall prescribe regulations governing the averaging of the value content of vehicles of the same class, of sister vehicles, assembled in the same plant as an alternative to the calculation of the value content of each vehicle.

(f) DEFINITIONS.—For purposes of this section:

(1) The term “Annex” means—

(A) the interpretative guidelines set forth in subsection (c); and

(B) the Annex rules.

(2) The term "Annex rules" means the rules proclaimed under subsection (d).

(3) The term "direct cost of processing or direct cost of assembling" means the costs directly incurred in, or that can reasonably be allocated to, the production of goods, including—

(A) the cost of all labor, including benefits and on-the-job training, labor provided in connection with supervision, quality control, shipping, receiving, storage, packaging, management at the location of the process or assembly, and other like labor, whether provided by employees or independent contractors;

(B) the cost of inspecting and testing the goods;

(C) the cost of energy, fuel, dies, molds, tooling, and the depreciation and maintenance of machinery and equipment, without regard to whether they originate within the territory of a Party;

(D) development, design, and engineering costs;

(E) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes and the cost of utilities for real property used in the production of goods; and

(F) royalty, licensing, or other like payments for the right to the goods;

but not including—

(i) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;

(ii) brokerage charges relating to the importation and exportation of goods;

(iii) the costs for telephone, mail, and other means of communication;

(iv) packing costs for exporting the goods;

(v) royalty payments related to a licensing agreement to distribute or sell the goods;

(vi) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes, and the cost of utilities for real property used by personnel charged with administrative functions; or

(vii) profit on the goods.

(4) The term "goods wholly obtained or produced in the territory of either Party or both Parties" means—

(A) mineral goods extracted in the territory of either Party or both Parties;

(B) goods harvested in the territory of either Party or both Parties;

(C) live animals born and raised in the territory of either Party or both Parties;

(D) goods (fish, shellfish, and other marine life taken from the sea by vessels registered or recorded with a Party and flying its flag;

(E) goods produced on board factory ships from the goods referred to in subparagraph (D) provided such factory ships are registered or recorded with that Party and fly its flag;

(F) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that Party has rights to exploit such seabed;

(G) goods taken from space, provided they are obtained by a Party or a person of a Party and not processed in a third country;

(H) waste and scrap derived from manufacturing operations and used goods, provided they were collected in the territory of either Party or both Parties and are fit only for the recovery of raw materials; and

(I) goods produced in the territory of either Party or both Parties exclusively from goods referred to in subparagraphs (A) to (H) inclusive or from their derivatives, at any stage of production.

(5) The term "materials" means goods, other than those included as part of the direct cost of processing or assembling, used or consumed in the production of other goods.

(6) The term "Party" means Canada or the United States.

(7) The term "territory" means—

(A) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic laws, Canada may exercise rights with respect to the seabed and subsoil and their natural resources; and

(B) with respect to the United States—

(i) the customs territory of the United States, which includes the fifty States, the District of Columbia and the Commonwealth of Puerto Rico,

(ii) the foreign trade zones located in the United States, and the Commonwealth of Puerto Rico, and

(iii) any area beyond the territorial seas of the United States within which, in accordance with international law and its domestic laws, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.

(8) The term "third country" means any country other than Canada or the United States or any territory not a part of the territory of either.

(9) The term "value of materials originating in the territory of either Party or both Parties" means the aggregate of—

(A) the price paid by the producer of an exported good for materials originating in the territory of either Party or both Parties or for materials imported from a third country used or consumed in the production of such originating materials; and

(B) when not included in that price, the following costs related thereto—

(i) freight, insurance, packing, and all other costs incurred in transporting any of the materials referred to in subparagraph (A) to the location of the producer;

(ii) duties, taxes, and brokerage fees on such materials paid in the territory of either Party or both Parties;

(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

(iv) the value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of

article VII of the General Agreement on Tariffs and Trade.

(10) The term "value of the goods when exported to the territory of the other Party" means the aggregate of—

(A) the price paid by the producer for all materials, whether or not the materials originate in either Party or both Parties, and, when not included in the price paid for the materials, the costs related to—

(i) freight, insurance, packing, and all other costs incurred in transporting all materials to the location of the producer;

(ii) duties, taxes, and brokerage fees on all materials paid in the territory of either Party or both Parties;

(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

(iv) the value of goods and services relating to all materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade; and

(B) the direct cost of processing or the direct cost of assembling the goods.

SPECIAL PROVISION REGARDING APPLICATION OF RULES OF ORIGIN TO CERTAIN APPAREL.—The Secretary of Commerce is authorized to issue regulations governing the exportation to Canada of apparel products that are cut, or knit to shape, and sewn, or otherwise assembled, in either Party from fabric produced or obtained in a third country for the purpose of establishing which parts of such products shall be permitted to claim preferential tariff treatment under the rules of origin of the Agreement, to the extent that the Agreement provides for quantitative limits on the availability of preferential tariff treatment for such products.

Regulations.

203. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding at the end thereof the following new paragraph:

(10) The fee charged under subsection (a)(10) of this section with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) shall be in accordance with article 403 of the United States-Canada Free-Trade Agreement. Any service for which an exemption from such fee is provided by reason of this paragraph shall not be funded with money contained in the Customs User Fee Fund."

204. DRAWBACK.

DEFINITION.—For purposes of this section, the term "drawbackable goods" means—

(1) goods provided for under paragraph 8 of article 404 of the Agreement;

(2) goods provided for under paragraphs 4 and 5 of such article; and

(3) goods other than those referred to in paragraphs (1) and (2) that the United States and Canada agree are not subject to paragraphs 1, 2, and 3 of such article.

No drawback may be paid with respect to countervailing duties or antidumping duties imposed on drawback eligible goods.

President of U.S.

(b) **IMPLEMENTATION OF ARTICLE 404.**—The President is authorized—

(1) to proclaim the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(1); and

(2) subject to the consultation and lay-over requirements of section 103(a), to proclaim—

(A) the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(3); and

(B) a delay in the taking effect of article 404 of the Agreement to a date later than January 1, 1994, with respect to any merchandise if the United States and Canada agree to the delay under paragraph 7 of such article.

(c) **CONSEQUENTIAL AMENDMENTS.**—

(1) **BONDED MANUFACTURING WAREHOUSES.**—Section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended by adding at the end thereof the following new paragraph:

“No article manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.”

(2) **BONDED SMELTING AND REFINING WAREHOUSES.**—Section 312 of the Tariff Act of 1930 (19 U.S.C. 1312) is further amended—

(A) by inserting after “exportation” in each of paragraphs (1) and (4) of subsection (b) the following: “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)”; and

(B) by inserting after “exportation” in subsection (d) the following: “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)”.

(3) **DRAWBACK.**—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsections:

“(n) For purposes of subsections (a), (b), (f), (h), and (j)(2), the shipment on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, to Canada of an article made from or substituted for, as appropriate,

drawback eligible good under section 204(a) of such Act of 1988 not constitute an exportation.

For purposes of subsection (g), vessels built for Canadian use and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988."

Maritime
affairs.

4) MANIPULATION IN WAREHOUSE.—The second sentence of section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended by striking out the proviso thereto and the colon preceding such proviso and inserting the following: "; except that upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom without payment of duties—

"(1) for exportation to Canada, but on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, such exemption from the payment of duties applies only in the case of the exportation to Canada of merchandise that—

"(A) is only cleaned, sorted, or repacked in a bonded warehouse, or

"(B) is a drawback eligible good under section 204(a) of such Act of 1988;

"(2) for exportation to any foreign country except Canada; and

"(3) for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Island or the island of Guam.

Territories, U.S.

Merchandise may be withdrawn from bonded warehouse for consumption, or for exportation to Canada if the duty exemption under paragraph (1) of the preceding sentence does not apply, upon the payment of duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition."

(5) FOREIGN TRADE ZONES.—Section 3(a) of the Act of June 18, 1934 (commonly known as the "Foreign Trade Zones Act"; 19 U.S.C. 81c) is further amended by adding before the period at the end thereof the following: "*Provided, further,* That with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested."

SEC. 205. ENFORCEMENT.

Records.

(a) CERTIFICATIONS OF ORIGIN.—

(1) Any person that certifies in writing that goods exported to Canada meet the rules of origin under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988 shall provide, upon request by any customs official, a copy of that certification.

(2) Any person that fails to provide a copy of a certification requested under paragraph (1) shall be liable to the United States for a civil penalty not to exceed \$10,000.

Fraud.

(3) Any person that certifies falsely that goods exported to Canada meet the rules of origin under such section 202 shall be liable to the United States for the same civil penalties provided under section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) for a violation of section 592(a) of such Act by fraud, gross negligence, or negligence, as the case may be. The procedures and provisions of section 592 of such Act that are applicable to a violation under section 592(a) of such Act shall apply with respect to such false certification.

(b) RECORDKEEPING REQUIREMENTS.—Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting “and (b)” after “(a)” in subsection (c), as so redesignated;

(3) by adding after subsection (a) the following new subsection:

“(b) Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations.”; and

(4) by adding at the end thereof the following new subsection:

“(e) Any person who fails to retain records required by subsection (b) or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed \$10,000.”.

SEC. 206. EXEMPTION FROM LOTTERY TICKET EMBARGO.

Effective date.

Section 305(a) of the Tariff Act of 1930 (19 U.S.C. 1305(a)) is amended by striking out the period at the end of the first paragraph and inserting the following: “: *Provided further*, That effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.”.

SEC. 207. PRODUCTION-BASED DUTY REMISSION PROGRAMS WITH RESPECT TO AUTOMOTIVE PRODUCTS.

(a) USTR STUDY.—The United States Trade Representative shall—

(1) undertake a study to determine whether any of the production-based duty remission programs of Canada with respect to automotive products is either—

(A) inconsistent with the provisions of, or otherwise denies the benefits to the United States under, the General Agreement on Tariffs and Trade, or

(B) being implemented inconsistently with the obligations under article 1002 of the Agreement not—

(i) to expand the extent or the application, or

- (ii) to extend the duration, of such programs; and
 - (2) determine whether to initiate an investigation under section 302 of the Trade Act of 1974 with respect to any of such production-based duty remission programs.
- (b) **REPORT AND MONITORING.**—
- (1) The United States Trade Representative shall submit a report to Congress no later than June 30, 1989 (or no later than September 30, 1989, if the Trade Representative considers an extension to be necessary) containing—
 - (A) the results of the study under subsection (a)(1), as well as a description of the basis used for measuring and verifying compliance with the obligations referred to in subsection (a)(1)(B); and
 - (B) any determination made under subsection (a)(2) and the reasons therefor.
 - (2) Notwithstanding the submission of the report under paragraph (1), the Trade Representative shall continue to monitor the degree of compliance with the obligations referred to in subsection (a)(1)(B).

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

19 USC 2112
note.

SEC. 301. AGRICULTURE.

(a) SPECIAL TARIFF PROVISIONS FOR FRESH FRUITS AND VEGETABLES.—

(1) The Secretary of Agriculture (hereafter in this section referred to as the “Secretary”) may recommend to the President the imposition of a temporary duty on any Canadian fresh fruit or vegetable entered into the United States if the Secretary determines that both of the following conditions exist at the time that imposition of the duty is recommended:

(A) For each of 5 consecutive working days the import price of the Canadian fresh fruit or vegetable is below 90 percent of the corresponding 5-year average monthly import price for such fruit or vegetable.

(B) The planted acreage in the United States for the like fresh fruit or vegetable is no higher than the average planted acreage over the preceding 5 years, excluding the years with the highest and lowest acreage. For the purposes of applying this subparagraph, any acreage increase attributed directly to a reduction in the acreage that was planted to wine grapes as of October 4, 1987, shall be excluded.

Whenever the Secretary makes a determination that the conditions referred to in subparagraphs (A) and (B) regarding any Canadian fresh fruit or vegetable exist, the Secretary shall promptly submit for publication in the Federal Register notice of the determination.

Federal
Register,
publication.

(2) In determining whether to recommend the imposition of a temporary duty to the President under paragraph (1), the Secretary shall consider whether the conditions in subparagraphs (A) and (B) of such paragraph have led to a distortion in trade between the United States and Canada of the fresh fruit or vegetable and, if so, whether the imposition of the duty is

President of U.S.

appropriate, including consideration of whether it would significantly correct this distortion.

(3) Not later than 7 days after receipt of a recommendation of the Secretary under paragraph (1), the President, after taking into account the national economic interests of the United States, shall determine whether to impose a temporary duty on the Canadian fresh fruit or vegetable concerned. If the determination is affirmative, the President shall proclaim the imposition and the rate of the temporary duty, but such duty shall not apply to the entry of articles that were in transit to the United States on the first day on which the temporary duty is in effect.

Termination
date.

(4) A temporary duty imposed under paragraph (3) shall cease to apply with respect to articles that are entered on or after the earlier of—

(A) the day following the last of 5 consecutive working days with respect to which the Secretary determines that the point of shipment price in Canada for the Canadian fruit or vegetable concerned exceeds 90 percent of the corresponding 5-year average monthly import price; or

(B) the 180th day after the date on which the temporary duty first took effect.

(5) No temporary duty may be imposed under this subsection on a Canadian fresh fruit or vegetable during such time as import relief is provided with respect to such fresh fruit or vegetable under chapter 1 of title II of the Trade Act of 1974.

(6) For purposes of this subsection:

(A) The term "Canadian fresh fruit or vegetable" means any article originating in Canada (as determined in accordance with section 202) and classified within any of the following headings of the Harmonized System:

- (i) 07.01 (relating to potatoes, fresh or chilled);
- (ii) 07.02 (relating to tomatoes, fresh or chilled);
- (iii) 07.03 (relating to onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled);
- (iv) 07.04 (relating to cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled);
- (v) 07.05 (relating to lettuce (*lactuca sativa*) and chicory (*cichorium* spp.), fresh or chilled);
- (vi) 07.06 (relating to carrots, salad beets or beetroot, salsify, celeriac, radishes and similar edible roots (excluding turnips), fresh or chilled);
- (vii) 07.07 (relating to cucumbers and gherkins, fresh or chilled);
- (viii) 07.08 (relating to leguminous vegetables, shelled or unshelled, fresh or chilled);
- (ix) 07.09 (relating to other vegetables (excluding truffles), fresh or chilled);
- (x) 08.06.10 (relating to grapes, fresh);
- (xi) 08.08.20 (relating to pears and quinces, fresh);
- (xii) 08.09 (relating to apricots, cherries, peaches (including nectarines), plums and sloes, fresh); and
- (xiii) 08.10 (relating to other fruit (excluding cranberries and blueberries), fresh).

(B) The term "corresponding 5-year average monthly import price" for a particular day means the average import price of a Canadian fresh fruit or vegetable, for the

calendar month in which that day occurs, for that month in each of the preceding 5 years, excluding the years with the highest and lowest monthly averages.

(C) The term "import price" has the meaning given such term in article 711 of the Agreement.

(D) The rate of a temporary duty imposed under this subsection with respect to a Canadian fresh fruit or vegetable means a rate that, including the rate of any other duty in effect for such fruit or vegetable, does not exceed the lesser of—

(i) the duty that was in effect for the fresh fruit or vegetable before January 1, 1989, under column one of the Tariff Schedules of the United States for the applicable season in which the temporary duty is applied; or

Tariff Schedules
of the U.S.

(ii) the duty in effect for the fresh fruit or vegetable under column one of such Schedules, or column 1 (General) of the Harmonized System, at the time the temporary duty is applied.

(7)(A) The Secretary shall, to the extent practicable, administer the provisions of this subsection to the 8-digit level of classification under the Harmonized System.

(B) The Secretary may issue such regulations as may be necessary to implement the provisions of this subsection.

(8) For purposes of assisting the Secretary in carrying out this subsection, the Commissioner of Customs and the Director of the Bureau of Census shall cooperate in providing the Secretary with timely information and data relating to the importation of Canadian fresh fruits and vegetables.

(9) The authority to impose temporary duties under this subsection expires on the 20th anniversary of the date on which the Agreement enters into force.

Termination
date.

MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 2253 note) is amended—

(1) by inserting at the end of subsection (b)(2) the following flush sentence:

"Such term does not include any article described in subparagraph (A), (B), or (C) originating in Canada (as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988).";

(2) by striking out "1,204,600,000" in subsection (c) and inserting "1,147,600,000";

(3) by striking out "1,250,000,000 pounds" in subsection (f)(1) and inserting "(A) 1,193,000,000 pounds if no import limitation on Canadian products is in effect under subsection (1), or (B) 1,250,000,000 pounds if an import limitation on Canadian products is in effect under subsection (1)";

(4) by inserting "other than Canada" after "countries" each place it appears in subsection (i); and

(5) by amending subsection (l) to read as follows:

If the President—

"(1) has—

"(A) proclaimed limitations on meat articles under the preceding provisions of this section, or

"(B) entered into one or more agreements other than with Canada regarding meat articles pursuant to section 204 of the Agricultural Act of 1956; and

"(2) determines that the Government of Canada has not taken equivalent action;

the President may by proclamation limit the total quantities of articles described in subsection (b)(2) (A), (B), and (C) and originating in Canada (as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) that may enter the United States. A limitation imposed under the preceding sentence shall be only to the extent that, and only for such period of time as, the President determines sufficient to prevent frustration of the limitations placed on meat articles imported from other countries under this section or actions taken with respect to meat articles under agreements negotiated pursuant to section 204 of the Agricultural Act of 1956."

(c) AGRICULTURAL ADJUSTMENT ACT.—Section 22(f) of the Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 624(f)), is amended by inserting immediately after "section" the following: "; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section".

(d) IMPORTATION OF ANIMAL VACCINES.—The second sentence of the eighth paragraph of the matter under the heading "BUREAU OF ANIMAL INDUSTRY" of the Act of March 4, 1913 (37 Stat. 832, chapter 145; 21 U.S.C. 152) is amended to read as follows: "The importation into the United States of any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and the importation of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals, is prohibited without (1) a permit from the Secretary of Agriculture, or (2) in the case of an article originating in Canada, such permit or, in lieu of such permit, such certification by Canada as may be prescribed by the Secretary of Agriculture."

(e) IMPORTATION OF SEEDS.—Subsection (e) of section 302 of the Federal Seed Act (7 U.S.C. 1582(e)) is amended to read as follows: "(e) The provisions of this title requiring certain seeds to be stained shall not apply—

"(1) to alfalfa or clover seed originating in Canada, or

"(2) when seeds otherwise required to be stained will not be sold within the United States and will be used for seed production only by or for the importer or consignee and the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 402 certifying that such seeds will be used only for seed production by or for the importer or consignee."

(f) PLANT AND ANIMAL HEALTH REGULATIONS.—

(1) Section 103 of the Federal Plant Pest Act (7 U.S.C. 150bb) is amended—

(A) in subsection (a), by striking out "No" and inserting in lieu thereof "Except as provided in subsection (c), no"; and

(B) by adding at the end thereof the following new subsection:

"(c) No person shall move any plant pest from Canada into or through the United States or accept delivery of any plant pest moving from Canada into or through the United States, unless such

Diseases.
Hazardous
materials.

Hazardous
materials.

Pests and
pesticides.

ment is made in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.”.

(2) Section 104 of the Federal Plant Pest Act (7 U.S.C. 150cc) is amended—

(A) in subsection (a), by striking out “Any letter” and inserting in lieu thereof “Except as provided in subsection (b), any letter”;

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following new subsection:

(b) Any letter, parcel, box, or other package from Canada containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.”.

(3) The Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 154 et seq.) is amended—

(A) in the first section (7 U.S.C. 154), by striking out “Provided” the first place it appears and inserting in lieu thereof “Provided, That the Secretary of Agriculture may waive the permit requirement for nursery stock imported or offered for entry from Canada: *Provided further*”; and

(B) by adding at the end of section 2 (7 U.S.C. 156) the following new sentence: “This section shall not apply to nursery stock that arrives from, or is imported from, Canada.”.

(4) Subsection (a) of section 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2803(a)) is amended to read as follows:

(a) No person shall knowingly move any noxious weed identified by regulation promulgated by the Secretary into or through the United States or interstate, unless such movement is—

“(1) from Canada, or authorized under general or specific permit from the Secretary; and

“(2) made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as the Secretary may prescribe under this Act to prevent the dissemination into the United States, or interstate, of such noxious weeds.”.

(5) Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306) is amended by inserting after subsection (a) the following new subsection:

(b) Notwithstanding subsection (a), the Secretary of Agriculture may permit, subject to such terms and conditions as the Secretary of Agriculture determines appropriate, the importation of cattle, sheep, or other ruminants, or swine (including embryos of such animals) or the fresh, chilled, or frozen meat of such animals from a country of Canada notwithstanding the existence of rinderpest or foot-and-mouth disease in Canada, if—

“(1) the United States and Canada have entered into an agreement delineating the criteria for recognizing that a geographical region of either country is free from rinderpest or foot-and-mouth disease; and

Mail.
Pests and
pesticides.

Meat.
Diseases.

"(2) the appropriate official of the government of Canada certifies that the region of Canada from which the animal or meat originated is free from rinderpest and foot-and-mouth disease."

SEC. 302. RELIEF FROM IMPORTS.

(a) RELIEF FROM IMPORTS OF CANADIAN ARTICLES.—

(1) A petition requesting action under this section for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the United States International Trade Commission (hereafter in this section referred to as the "Commission") by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The Commission shall transmit a copy of any petition filed under this paragraph to the United States Trade Representative.

(2)(A) Upon the filing of a petition under paragraph (1), the Commission shall promptly initiate an investigation to determine whether, as a result of a reduction or elimination of a duty provided for under the United States-Canada Free-Trade Agreement, an article originating in Canada is being imported into the United States in such increased quantities, in absolute terms, and under such conditions, so that imports of such Canadian article, alone, constitute a substantial cause of serious injury to the domestic industry producing an article like, or directly competitive with, the imported article.

(B) The provisions of—

(i) paragraphs (2), (3), (4), (6), and (7) of subsection (b), other than paragraph (2)(B), and

(ii) subsection (c),

of section 201 of the Trade Act of 1974 (19 U.S.C. 2251), as in effect on June 1, 1988, shall apply with respect to any investigation initiated under subparagraph (A).

(C) By no later than the date that is 120 days after the date on which an investigation is initiated under subparagraph (A), the Commission shall make a determination under subparagraph (A) with respect to such investigation.

(D) If the determination made by the Commission under subparagraph (A) with respect to imports of an article is affirmative, the Commission shall find and recommend to the President the amount of import relief that is necessary to remedy the injury found by the Commission in such affirmative determination, which shall be limited to that set forth in paragraph (3)(C).

(E)(i) By no later than the date that is 30 days after the date on which a determination is made under subparagraph (A) with respect to an investigation, the Commission shall submit to the President a report on the determination and the basis for the determination. The report shall include any dissenting or separate views and a transcript of the hearings and any briefs which were submitted to the Commission in the course of the investigation initiated under subparagraph (A).

(ii) Any finding made under subparagraph (D) shall be included in the report submitted to the President under clause (i).

(F) Upon submitting a report to the President under subparagraph (E), the Commission shall promptly make public such report (with the exception of information which the Commission

Reports.

Public
information.
Classified
information.
Federal
Register,
publication.

determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(G) For purposes of this subsection—

(i) The provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this paragraph as if such determinations and findings were made under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

(ii) The determination of whether an article originates in Canada shall be made in accordance with section 202 (including any proclamations issued under section 202).

(3)(A) By no later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination made by the Commission under paragraph (2)(A), the President shall provide relief from imports of the article originating in Canada that is the subject of such determination to the extent that, and for such time (not to exceed 3 years) as the President determines to be necessary to remedy the injury found by the Commission.

President of U.S.

(B) The President is not required to provide import relief by reason of this paragraph if the President determines that the provision of such import relief is not in the national economic interest.

(C) The import relief that the President is authorized to provide by reason of this paragraph with respect to an article originating in Canada is limited to—

(i) the suspension of any further reductions provided for under the Agreement in the duty imposed on such article originating in Canada,

(ii) an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the lesser of—

(I) the most-favored-nation rate of duty that is imposed by the United States on such article from any other foreign country at the time such import relief is provided, or

(II) the most-favored-nation rate of duty that is imposed by the United States on such article from any other foreign country on the day before the date on which the Agreement enters into force, or

(iii) in the case of a duty applied on a seasonal basis to such article originating in Canada, an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the most-favored-nation rate of duty imposed by the United States on such article originating in Canada for the corresponding season immediately prior to the date on which the Agreement enters into force.

(4)(A) No investigation may be initiated under paragraph (2)(A) with respect to any article for which import relief has been provided under this subsection.

(B) No import relief may be provided under this subsection after the date that is 10 years after the date on which the Agreement enters into force.

(5) For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under

Business and
industry.
Reports.

paragraph (3) shall be treated as action taken under chapter I of title II of such Act.

(b) **RELIEF FROM IMPORTS FROM ALL COUNTRIES.—**

(1)(A) If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which is treated as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry, the Commission shall also find (and report to the President at the time such injury determination is submitted to the President), whether imports from Canada of the article that is the subject of such investigation are substantial and are contributing importantly to such injury or threat thereof.

(B)(i) In determining under subparagraph (A) whether imports of an article from Canada are substantial, the Commission shall not normally consider imports from Canada in the range of 5 to 10 percent or less of total imports of such article to be substantial.

(ii) For purposes of this paragraph, the term “contributing importantly” means an important cause, but not necessarily the most important cause, of the serious injury or threat thereof caused by imports.

(2)(A) In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 with respect to imports from Canada, the President shall determine whether imports from Canada of such article are substantial and contributing importantly to the serious injury or threat of serious injury found by the Commission.

(B) In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall exclude from such action imports from Canada if the President has made a negative determination under subparagraph (A) regarding imports from Canada.

(3)(A) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, the President may, if the President thereafter determines that a surge in imports from Canada of the article that is the subject of the action is undermining the effectiveness of the action, take appropriate action under such chapter with respect to such imports from Canada to include such imports in such action.

(B)(i) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry for which such action is being taken under such chapter may request the Commission to conduct an investigation of imports from Canada of the article that is the subject of such action.

(ii) Upon receiving a request under clause (i), the Commission shall conduct an investigation to determine whether a surge in imports from Canada of the article that is the subject of action being taken under chapter 1 of title II of the Trade Act of 1974 undermines the effectiveness of such action. The Commission

shall submit the findings of such investigation to the President by no later than the date that is 30 days after the date on which such request is received by the Commission.

(C) For purposes of this paragraph, the term "surge" means a significant increase in imports over the trend for a reasonable, recent base period for which data are available.

(c) Any entity that is representative of an industry may submit a petition for relief under subsection (a), under chapter 1 of title II of the Trade Act of 1974, or under both subsection (a) and such chapter at the same time. If petitions are submitted by such an entity under subsection (a) and such chapter at the same time, the Commission shall consider such petitions jointly.

SEC. 303. ACTS IDENTIFIED IN NATIONAL TRADE ESTIMATES.

With respect to any act, policy, or practice of Canada that is identified in the annual report submitted under section 181 of the Trade Act of 1974 (19 U.S.C. 2241), the United States Trade Representative shall include—

(1) information with respect to the action taken regarding such act, policy, or practice, including but not limited to—

(A) any action under section 301 of the Trade Act of 1974 (including resolution through appropriate dispute settlement procedures),

(B) any action under section 307 of the Trade and Tariff Act of 1984, and

(C) negotiations or consultations, whether on a bilateral or multilateral basis; or

(2) the reasons that no action was taken regarding such act, policy, or practice.

SEC. 304. NEGOTIATIONS REGARDING CERTAIN SECTORS; BIENNIAL REPORTS.

President of U.S.

(a) IN GENERAL.—

(1) The President is authorized to enter into negotiations with the Government of Canada for the purpose of concluding an agreement (including an agreement amending the Agreement) or agreements to—

(A) liberalize trade in services in accordance with article 1405 of the Agreement;

(B) liberalize investment rules;

(C) improve the protection of intellectual property rights;

(D) increase the value requirement applied for purposes of determining whether an automotive product is treated as originating in Canada or the United States; and

(E) liberalize government procurement practices, particularly with regard to telecommunications.

(2) As an exercise of the foreign relations powers of the President under the Constitution, the President will enter into immediate consultations with the Government of Canada to obtain the exclusion from the transport rates established under Canada's Western Grain Transportation Act of agricultural goods that originate in Canada and are shipped via east coast ports for consumption in the United States.

Securities.
Patents and
trademarks.
Motor vehicles.

Contracts.
Communications
and tele-
communications.
Transportation.
Agriculture and
agricultural
commodities.

(b) NEGOTIATING OBJECTIVES REGARDING SERVICES, INVESTMENT, AND INTELLECTUAL PROPERTY RIGHTS.—

(1) The objectives of the United States in negotiations conducted under subsection (a)(1)(A) to liberalize trade in services include—

(A) with respect to developing services sectors not covered in the Agreement, the elimination of those tariff, nontariff, and subsidy trade distortions that have potential to affect significant bilateral trade;

(B) the elimination or reduction of measures grandfathered by the Agreement that deny or restrict national treatment in the provision of services;

(C) the elimination of local presence requirements; and

(D) the liberalization of government procurement of services.

In conducting such negotiations, the President shall consult with the services advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(2) The objectives of the United States in any negotiations conducted under subsection (a)(1)(B) to liberalize investment rules include—

(A) the elimination of direct investment screening;

(B) the extension of the principles of the Agreement to energy and cultural industries, to the extent such industries are not currently covered by the Agreement;

(C) the elimination of technology transfer requirements and other performance requirements not currently barred by the Agreement; and

(D) the submission of all investment disputes to dispute resolution under chapter 18 of the Agreement.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in investment.

(3) The objectives of the United States in any negotiations conducted under subsection (a)(1)(C) to improve the protection of intellectual property rights include—

(A) the recognition and adequate protection of intellectual property, including copyrights, patents, process patents, trademarks, mask works, and trade secrets; and

(B) the establishment of dispute resolution procedures and binational enforcement of intellectual property standards.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in intellectual property.

(c) **NEGOTIATING OBJECTIVES REGARDING AUTOMOTIVE PRODUCTS.—**

(1) In conducting negotiations under subsection (a)(1)(D) regarding the value requirement for automotive products, the President shall seek to conclude an agreement by no later than January 1, 1990, to increase the value requirement from 50 percent to at least 60 percent.

(2) The President is authorized, through January 1, 1999, to proclaim any agreed increase in the value requirement.

(3) As used in this section, the term “value requirement” means the minimum percentage of the value of an automotive product that must be accounted for by the value of the materials in the product that originated in the United States or Canada, or both, plus the direct cost of processing or assembly

performed in the United States or Canada, or both, with respect to the product.

1) NEGOTIATION OF LIMITATION ON POTATO TRADE.—

(1) During the 5-year period beginning on the date of enactment of this Act, the President is authorized to enter into negotiations with Canada for the purpose of obtaining an agreement to limit the exportation and importation of all potatoes between the United States and Canada, including seed potatoes, fresh, chilled or frozen potatoes, dried, desiccated or dehydrated potatoes, and potatoes otherwise prepared or preserved. Any agreement negotiated under this subsection shall provide for an annual limitation divided equally into each half of the year.

(2) For the purpose of conducting negotiations under paragraph (1), the Secretary of Agriculture and the United States Trade Representative shall consult with representatives of the potato producing industry, including the Ad Hoc Potato Advisory Group and the United States/Canada Horticultural Industry Advisory Committee, to solicit their views on negotiations with Canada for reciprocal quantitative limits on the potato trade.

(3) The President is authorized to direct the Secretary of the Treasury to—

(A) carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of any agreement that is entered into under this section; and

(B) enforce any quantitative limitation, restriction, and other terms contained in the agreement.

Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of any article that is subject to the agreement.

Records.

(4) The provisions of section 1204 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736j) and the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) shall not apply in the case of actions taken pursuant to this subsection.

2) CANADIAN CONTROLS ON FISH.—

(1) Within 30 days of the application by Canada of export controls on unprocessed fish under statutes exempted from the Agreement under article 1203, or the application of landing requirements for fish caught in Canadian waters, the President shall take appropriate action to enforce United States rights under the General Agreement on Tariffs and Trade that are retained in article 1205 of the Agreement.

(2) In enforcing the United States rights referred to in paragraph (1), the President has discretion to—

(A) bring a challenge to the offending Canadian practices before the GATT;

(B) retaliate against such offending practices;

(C) seek resolution directly with Canada;

(D) refer the matter for dispute resolution to the Canada-United States Trade Commission; or

(E) take other action that the President considers appropriate to enforce such United States rights.

3) BIENNIAL REPORT.—The President shall submit to the Congress, at the close of each biennial period occurring after the date on which the Agreement enters into force, a report regarding—

(1) the status of the negotiations regarding agreements that the President is authorized to enter into with Canada under this section;

(2) the effectiveness and operation of any agreement entered into under section 304 that is in force with respect to the United States;

(3) the effectiveness of operation of the Agreement generally; and

(4) the actions taken by the United States and Canada to implement further the objectives of the Agreement.

SEC. 305. ENERGY.

(a) **ALASKAN OIL.**—Section 7(d)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(d)(1)) is amended—

(1) by striking “or” before “(B)”;

(2) by inserting after “reenters the United States” the following: “, or (C) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under subparagraphs (A) and (B), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code”.

(b) **URANIUM.**—Section 161(v) of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) is amended by inserting “For purposes of this subsection and of section 305 of Public Law 99-591 (100 Stat. 3341-209, 210), ‘foreign origin’ excludes source or special nuclear material originating in Canada.” before “The Commission shall establish”.

SEC. 306. LOWERED THRESHOLD FOR GOVERNMENT PROCUREMENT UNDER TRADE AGREEMENTS ACT OF 1979 IN THE CASE OF CERTAIN CANADIAN PRODUCTS.

Section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)) is amended by inserting after subparagraph (C) the following new subparagraph:

“(D) **LOWERED THRESHOLD FOR CERTAIN PRODUCTS AS A CONSEQUENCE OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.**—Except as otherwise agreed by the United States and Canada under paragraph 3 of article 1304 of the United States-Canada Free-Trade Agreement, the term ‘eligible product’ includes a product or service of Canada having a contract value of \$25,000 or more that would be covered for procurement by the United States under the GATT Agreement on Government Procurement, but for the SDR threshold provided for in article I(1)(b) of the GATT Agreement on Government Procurement.”.

SEC. 307. TEMPORARY ENTRY FOR BUSINESS PERSONS.

(a) **NONIMMIGRANT TRADERS AND INVESTORS.**—Upon a basis of reciprocity secured by the United States-Canada Free-Trade Agreement, a citizen of Canada, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1502.1 (United States of America), Part B—Traders and Investors, of such Agree-

ent, but only if any such purpose shall have been specified in such annex as of the date of entry into force of such Agreement.

b) NONIMMIGRANT PROFESSIONALS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end thereof the following new subsection:

e) Notwithstanding any other provision of this Act, an alien who is a citizen of Canada and seeks to enter the United States under the provisions of Annex 1502.1 (United States of America), Part C—Professionals, of the United States-Canada Free Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor.”.

SEC. 308. AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES.

Paragraph “Seventh” of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by adding at the end thereof the following:

A national banking association may deal in, underwrite, and purchase for such association’s own account qualified Canadian government obligations to the same extent that such association may deal in, underwrite, and purchase for such association’s own account obligations of the United States or general obligations of any State or any political subdivision thereof. For purposes of this paragraph—

Banks and
banking.
Securities.

“(1) the term ‘qualified Canadian government obligations’ means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, such State, or such political subdivision, and such term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

“(A) the obligation of the agent is assumed in such agent’s capacity as agent for Canada or such Province or such political subdivision; and

“(B) Canada, such Province, or such political subdivision on whose behalf such agent is acting with respect to such obligation is ultimately and unconditionally liable for such obligation; and

“(2) the term ‘Province of Canada’ means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.”.

SEC. 309. STEEL PRODUCTS.

Nothing in this Act shall preclude any discussion or negotiation between the United States and Canada in order to conclude voluntary restraint agreements or mutually agreed quantitative restrictions on the volume of steel products entering the United States from Canada.

19 USC 2112
note.

TITLE IV—BINATIONAL PANEL DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

SEC. 401. AMENDMENTS TO SECTION 516A OF THE TARIFF ACT OF 1930.

(a) **TIME LIMITS.**—Section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) is amended by adding at the end thereof the following new paragraph.

“(5) **TIME LIMITS IN CASES INVOLVING CANADIAN MERCHANDISE.**—Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the 31st day after—

“(A) the date of publication in the Federal Register of—

“(i) notice of any determination described in paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or

“(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or

“(B) the date on which the Government of Canada receives notice of a determination described in clause (vi) of paragraph (2)(B).”.

(b) **DEFINITIONS.**—Section 516A(f) of the Tariff Act of 1930 (19 U.S.C. 1516a(f)) is amended by adding at the end thereof the following new paragraphs:

“(5) **AGREEMENT.**—The term ‘Agreement’ means the United States-Canada Free-Trade Agreement.

“(6) **UNITED STATES SECRETARY.**—The term ‘United States Secretary’ means the secretary provided for in paragraph 4 of article 1909 of the Agreement.

“(7) **CANADIAN SECRETARY.**—The term ‘Canadian Secretary’ means the secretary provided for in paragraph 5 of article 1909 of the Agreement.”.

(c) **REVIEW REGARDING CANADIAN MERCHANDISE.**—Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended by adding at the end thereof the following new subsection:

“(g) **REVIEW OF COUNTERVAILING DUTY AND ANTIDUMPING DUTY DETERMINATIONS INVOLVING CANADIAN MERCHANDISE.**—

“(1) **DEFINITION OF DETERMINATION.**—For purposes of this subsection, the term ‘determination’ means a determination described in—

“(A) paragraph (1)(B) of subsection (a), or

“(B) clause (i), (ii), (iii), or (vi) of paragraph (2)(B) of subsection (a),

if made in connection with a proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority.

“(2) **EXCLUSIVE REVIEW OF DETERMINATION BY BINATIONAL PANELS.**—If binational panel review of a determination is requested pursuant to article 1904 of the Agreement, then, except as provided in paragraphs (3) and (4)—

Federal
Register,
publication.

“(A) the determination is not reviewable under subsection (a), and

“(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

“(3) EXCEPTION TO EXCLUSIVE BINATIONAL PANEL REVIEW.—

“(A) IN GENERAL.—A determination is reviewable under subsection (a) if the determination sought to be reviewed is—

“(i) a determination as to which neither the United States nor Canada requested review by a binational panel pursuant to article 1904 of the Agreement,

“(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a), if neither the United States nor Canada requested review of the original determination, or

“(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) prior to the entry into force of the Agreement.

“(B) SPECIAL RULE.—A determination described in subparagraph (A)(i) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations.

Regulations.

“(4) EXCEPTION TO EXCLUSIVE BINATIONAL PANEL REVIEW FOR CONSTITUTIONAL ISSUES.—

“(A) CONSTITUTIONALITY OF BINATIONAL PANEL REVIEW SYSTEM.—An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the United States-Canada Free-Trade Implementation Agreement Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement violates the Constitution may be brought in the United States Court of Appeals for the District of Columbia Circuit. Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28, United States Code.

Courts, U.S.
District of
Columbia.

“(B) OTHER CONSTITUTIONAL REVIEW.—Review is available under subsection (a) with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade.

Courts, U.S.

Federal
Register,
publication.

“(C) COMMENCEMENT OF REVIEW.—Notwithstanding the time limits in subsection (a), within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

“(D) TRANSFER OF ACTIONS TO APPROPRIATE COURT.—Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

“(E) FRIVOLOUS CLAIMS.—Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28, United States Code, and the Federal Rules of Civil Procedure.

“(F) SECURITY.—

“(i) SUBPARAGRAPH (A) ACTIONS.—The security requirements of rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

“(ii) SUBPARAGRAPH (B) ACTIONS.—No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

“(G) PANEL RECORD.—The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

“(H) APPEAL TO SUPREME COURT OF COURT ORDERS ISSUED IN SUBPARAGRAPH (A) ACTIONS.—Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

Courts, U.S.

(5) LIQUIDATION OF ENTRIES.—

“(A) APPLICATION.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c).

“(B) GENERAL RULE.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision.

Federal
Register,
publication.

“(C) SUSPENSION OF LIQUIDATION.—

“(i) IN GENERAL.—Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) for which binational panel review is requested pursuant to article 1904 of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

“(ii) NOTICE.—At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the Canadian Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

“(iii) APPLICATION OF SUSPENSION.—If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9), the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the Agreement.

“(iv) JUDICIAL REVIEW.—Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall

have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

“(6) INJUNCTIVE RELIEF.—Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the provisions of subsection (c)(2) shall not apply.

“(7) IMPLEMENTATION OF INTERNATIONAL OBLIGATIONS UNDER ARTICLE 1904.—

“(A) IN GENERAL.—If a determination is referred to a binational panel or extraordinary challenge committee under the Agreement and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

“(B) APPLICATION IF SUBPARAGRAPH (A) HELD UNCONSTITUTIONAL.—In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

“(8) REQUESTS FOR BINATIONAL PANEL REVIEW.—

“(A) INTERESTED PARTY REQUESTS FOR BINATIONAL PANEL REVIEW.—An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

“(B) SERVICE OF REQUEST FOR BINATIONAL PANEL REVIEW.—

“(i) SERVICE BY INTERESTED PARTY.—If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate. Mail.

“(ii) SERVICE BY UNITED STATES SECRETARY.—If an interested party to the proceeding requests binational panel review of a determination by filing a request with the Canadian Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

“(C) LIMITATION ON REQUEST FOR BINATIONAL PANEL REVIEW.—Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review under article 1904 of the Agreement of a determination.

“(9) REPRESENTATION IN PANEL PROCEEDINGS.—In the case of binational panel proceedings convened under chapter 19 of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

“(10) NOTIFICATION OF CLASS OR KIND RULINGS.—In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of Canada received notice of the determination under article 1904(4) of the Agreement.”.

) STANDARDS OF REVIEW.—Section 516A(b) of the Tariff Act of 19 U.S.C. 1516a(b)) is amended by adding a new paragraph (3) as follows:

“(3) EFFECT OF DECISIONS BY UNITED STATES-CANADA BINATIONAL PANELS.—In making a decision in any action brought under subsection (a), a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the Agreement.”. Courts, U.S.

402. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

) JURISDICTION OF COURT OF INTERNATIONAL TRADE.—Section 1(i) of title 28, United States Code, is amended by adding at the end thereof the following flush sentence: “This subsection shall not confer jurisdiction over an antidumping or countervailing duty determination which is reviewable either by the Court of International Trade under section 516A(a) of the Tariff Act of 1930 or by binational panel under article 1904 of the United States-Canada

Free-Trade Agreement and section 516A(g) of the Tariff Act of 1930.”

(b) **RELIEF IN COURT OF INTERNATIONAL TRADE.**—Section 2643(c) of title 28, United States Code, is amended—

(1) by striking out “and (4)” in paragraph (1) and inserting in lieu thereof “(4), and (5)”; and

(2) by adding at the end thereof the following new paragraph:

“(5) In any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority, the Court of International Trade may not order declaratory relief.”.

(c) **DECLARATORY JUDGMENTS.**—Subsection (a) of section 2201 of title 28, United States Code, is amended—

(1) by striking out “1954 or” and inserting in lieu thereof “1986,”; and

(2) by inserting “or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority,” after “of title 11,”.

(d) **ACTIONS UNDER THE AGREEMENT.**—

(1) Chapter 95 of title 28, United States Code, is amended by inserting after section 1583 the following new section:

“§ 1584. Civil actions under the United States-Canada Free-Trade Agreement

“The United States Court of International Trade shall have exclusive jurisdiction of any civil action which arises under section 777(d) of the Tariff Act of 1930 and is commenced by the United States to enforce administrative sanctions levied for violation of a protective order or an undertaking.”.

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by inserting after the item relating to section 1583 the following new item:

“1584. Civil actions under the United States-Canada Free-Trade Agreement.”.

Courts, U.S.

SEC. 403. CONFORMING AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)) is amended by striking out all after “recommending the same,” and inserting in lieu thereof “a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement.”.

(b) Section 514(b) of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by inserting “, or review by a binational panel of a determination to which section 516A(g)(2) applies is commenced pursuant to section 516A(g) and article 1904 of the United States-Canada Free-Trade Agreement” after “International Trade”.

(c) Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended by adding at the end thereof the following new subsection:

“(d) **DISCLOSURE OF PROPRIETARY INFORMATION UNDER PROTECTIVE ORDERS ISSUED PURSUANT TO THE UNITED STATES-CANADA AGREEMENT.**—

“(1) **ISSUANCE OF PROTECTIVE ORDERS.**—

“(A) **IN GENERAL.**—If binational panel review of a determination under this title is requested pursuant to article 1904 of the United States-Canada Agreement, or an

extraordinary challenge committee is convened under Annex 1904.13 of the United States-Canada Agreement, the administering authority or the Commission, as appropriate, may make available to authorized persons, under a protective order described in paragraph (2), a copy of all proprietary material (but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement) in the administrative record made during the proceeding in question.

“(B) AUTHORIZED PERSONS.—For purposes of this subsection, the term “authorized persons” means—

“(i) the members of, and the appropriate staff of, the binational panel or the extraordinary challenge committee, as the case may be, and the Secretariat,

“(ii) counsel for parties to such panel or committee proceeding, and employees of such counsel, and

“(iii) any officer or employee of the United States Government designated by the administering authority or the Commission, as appropriate, to whom disclosure is necessary in order to implement the United States-Canada Agreement with respect to such proceeding.

“(C) REVIEW.—A decision concerning the disclosure or nondisclosure of material under protective order by the administering authority or the Commission shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such decision on any question of law or fact by an action in the nature of mandamus or otherwise.

“(2) CONTENTS OF PROTECTIVE ORDER.—Each protective order issued under this subsection shall be in such form and contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall ensure that regulations issued pursuant to this paragraph shall be designed to provide an opportunity for participation in the binational panel proceeding equivalent to that available for judicial review of determinations by the administering authority or the Commission that are not subject to review by a binational panel.

“(3) PROHIBITED ACTS.—It is unlawful for any person to violate, or to induce the violation of, any provision of a protective order issued under this subsection or to violate, or to induce the violation of, any provision of an undertaking entered into with an authorized agency of Canada to protect proprietary material during binational panel review pursuant to article 1904 of the United States-Canada Agreement.

“(4) SANCTIONS FOR VIOLATION OF PROTECTIVE ORDERS.—Any person who is found by the administering authority or the Commission, as appropriate, after notice and an opportunity for hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (3) shall be liable to the United States for a civil penalty and shall be subject to such other administrative sanctions, including, but not limited to, debarment from practice before the administering authority or the Commission, as the administering authority or the Commission determines to be appropriate. The amount of the civil penalty shall not exceed \$100,000 for each

violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty and other sanctions shall be assessed by the administering authority or the Commission by written notice, except that assessment shall be made by the administering authority for violation, or inducement of a violation, of an undertaking entered into by any person with an authorized agency of Canada.

Mail.

Records.

“(5) REVIEW OF SANCTIONS.—Any person against whom sanctions are imposed under paragraph (4) may obtain review of such sanctions by filing a notice of appeal in the United States Court of International Trade within 30 days from the date of the order imposing the sanction and by simultaneously sending a copy of such notice by certified mail to the administering authority or the Commission, as appropriate. The administering authority or the Commission shall promptly file in such court a certified copy of the record upon which such violation was found or such sanction imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the administering authority or the Commission shall be set aside by the court only if the court finds that such findings and order are not supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

“(6) ENFORCEMENT OF SANCTIONS.—If any person fails to pay an assessment of a civil penalty or to comply with other administrative sanctions after the order imposing such sanctions becomes a final and unappealable order, or after the United States Court of International Trade has entered final judgment in favor of the administering authority or the Commission, an action may be filed in such court to enforce the sanctions. In such action, the validity and appropriateness of the final order imposing the sanctions shall not be subject to review.

Records.

“(7) TESTIMONY AND PRODUCTION OF PAPERS.—

“(A) AUTHORITY TO OBTAIN INFORMATION.—For the purpose of conducting any hearing and carrying out other functions and duties under this subsection, the administering authority and the Commission, or their duly authorized agents—

“(i) shall have access to and the right to copy any pertinent document, paper, or record in the possession of any individual, partnership, corporation, association, organization, or other entity,

“(ii) may summon witnesses, take testimony, and administer oaths,

“(iii) and may require any individual or entity to produce pertinent documents, books, or records.

Any member of the Commission, and any person so designated by the administering authority, may sign subpoenas, and members and agents of the administering authority and the Commission, when authorized by the administering authority or the Commission, as appropriate, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

“(B) WITNESSES AND EVIDENCE.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subparagraph (A) may be required from any place in

the United States at any designated place of hearing. In the case of disobedience to a subpoena issued under subparagraph (A), an action may be filed in any district or territorial court of the United States to require the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization or other entity, issue any order requiring such individual or entity to appear before the administering authority or the Commission, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

“(C) **MANDAMUS.**—Any court referred to in subparagraph (B) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this subsection or any order of the administering authority or the Commission made in pursuance thereof.

“(D) **DEPOSITIONS.**—For purposes of carrying out any functions or duties under this subsection, the administering authority or the Commission may order testimony to be taken by deposition. Such deposition may be taken before any person designated by the administering authority or Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the administering authority or Commission, as provided in this paragraph.

“(E) **FEES AND MILEAGE OF WITNESSES.**—Witnesses summoned before the administering authority or the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.”

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph

“(18) **UNITED STATES-CANADA AGREEMENT.**—The term ‘United States-Canada Agreement’ means the United States-Canada Free-Trade Agreement.”.

404. AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAW.

Any amendment enacted after the Agreement enters into force respect to the United States that is made to—

(1) section 303 or title VII of the Tariff Act of 1930, or any successor statute, or

(2) any other statute which—

(A) provides for judicial review of final determinations under such section, title, or statute, or

(B) indicates the standard of review to be applied,

shall apply to Canada only to the extent specified in such amendment.

Establishment.

SEC. 405. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTERS 18 AND 19 OF THE AGREEMENT.

(a) APPOINTMENT OF INDIVIDUALS TO PANELS AND COMMITTEES.—

(1)(A) There is established within the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) an interagency group which shall—

(i) be chaired by the United States Trade Representative (hereafter in this section referred to as the “Trade Representative”), and

(ii) consist of such officers (or the designees thereof) of the Government of the United States as the Trade Representative considers appropriate.

(B) The interagency group established under subparagraph (A) shall, in a manner consistent with chapter 19 of the Agreement—

(i) prepare by January 3 of each calendar year—

(I) a list of individuals who are qualified to serve as members of binational panels convened under chapter 19 of the Agreement, and

(II) a list of individuals who are qualified to serve on extraordinary challenge committees convened under such chapter,

(ii) if the Trade Representative makes a request under paragraph (5)(A)(i) with respect to a final candidate list during any calendar year, prepare by July 1 of such calendar year a list of those individuals who are qualified to be added to that final candidate list,

(iii) exercise oversight of the administration of the United States Secretariat that is authorized to be established under subsection (e), and

(iv) make recommendations to the Trade Representative regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.

(2)(A) The Trade Representative shall select individuals from the respective lists prepared by the interagency group under paragraph (1)(B)(i) for placement on a preliminary candidate list of individuals eligible to serve as members of binational panels under Annex 1901.2 of the Agreement and a preliminary candidate list of individuals eligible for selection as members of extraordinary challenge committees under Annex 1904.13 of the Agreement.

(B) The selection of individuals for—

(i) placement on lists prepared by the interagency group under clause (i) or (ii) of paragraph (1)(B),

(ii) placement on preliminary candidate lists under subparagraph (A),

(iii) placement on final candidate lists under paragraph (3),

(iv) placement by the Trade Representative on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, and

(v) appointment by the Trade Representative for service on binational panels and extraordinary challenge committees convened under chapter 19 of the Agreement, shall be made on the basis of the criteria provided in Annex 01.2(1) and Annex 1904.13(1) of the Agreement and shall be made without regard to political affiliation.

(C) For purposes of applying section 1001 of title 18, United States Code, the written or oral responses of individuals to inquiries of the interagency group established under paragraph 2(A) or the Trade Representative regarding their personal and professional qualifications, and financial and other relevant interests, that bear on their suitability for the placements and appointments described in subparagraph (B), shall be treated as matters within the jurisdiction of an agency of the United States.

(3)(A) By no later than January 3 of each calendar year, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "appropriate Congressional Committees") the preliminary candidate lists of those individuals selected by the Trade Representative under paragraph (2)(A) to be candidates eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year.

(B) Upon submission of the preliminary candidate lists under paragraph (A) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals listed on the preliminary candidate lists.

(C) The Trade Representative may add or delete individuals from the preliminary candidate lists submitted under subparagraph (A) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the preliminary candidate lists.

(4)(A) By no later than March 31 of each calendar year, the Trade Representative shall submit to the appropriate Congressional Committees the final candidate lists of those individuals selected by the Trade Representative to be candidates eligible to serve on binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year. An individual may be included on a final candidate list only if written notice of the addition of such individual to the preliminary candidate list was submitted to the appropriate Congressional Committees at least 15 days before the date on which the final candidate list is submitted to the appropriate Congressional Committees under this subparagraph.

(B) Except as provided in paragraph (5), no additions may be made to the final candidate lists after the final candidate lists are submitted to the appropriate Congressional Committees under subparagraph (A).

(5)(A) If, after the Trade Representative has submitted the final candidate lists to the appropriate Congressional Commit-

tees under paragraph (4)(A) for a calendar year and before July 1 of such calendar year, the Trade Representative determines that additional individuals need to be added to a final candidate list, the Trade Representative shall—

(i) request the interagency group established under paragraph (1)(A) to prepare a list of individuals who are qualified to be added to such candidate list,

(ii) select individuals from the list prepared by the interagency group under paragraph (1)(B)(ii) to be included in a proposed amendment to such final candidate list, and

(iii) by no later than July 1 of such calendar year, submit to the appropriate Congressional Committees the proposed amendments to such final candidate list developed by the Trade Representative under clause (ii).

(B) Upon submission of a proposed amendment under subparagraph (A)(iii) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals included in the proposed amendment.

(C) The Trade Representative may add or delete individuals from any proposed amendment submitted under subparagraph (A)(iii) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the proposed amendment.

(D)(i) If the Trade Representative submits under subparagraph (A)(iii) in any calendar year a proposed amendment to a final candidate list, the Trade Representative shall, by no later than September 30 of such calendar year, submit to the appropriate Congressional Committees the final form of such amendment. On October 1 of such calendar year, such amendment shall take effect and the individuals included in the final form of such amendment shall be added to the final candidate list.

(ii) An individual may be included in the final form of an amendment submitted under clause (i) only if written notice of the addition of such individual to the proposed form of such amendment was submitted to the appropriate Congressional Committees at least 15 days before the date on which the final form of such amendment is submitted under clause (i).

(iii) Individuals added to a final candidate list under clause (i) shall be eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement, as the case may be, during the 6-month period beginning on October 1 of the calendar year in which such addition occurs.

(iv) No additions may be made to the final form of an amendment described in clause (i) after the final form of such amendment is submitted to the appropriate Congressional Committees under clause (i).

(6)(A) The Trade Representative is the only officer of the Government of the United States authorized to act on behalf of the Government of the United States in making any selection or appointment of an individual to—

(i) the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

Effective date.

Effective date.

(ii) the binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement, that is to be made solely or jointly by the Government of the United States under the terms of the Agreement.

(B) Except as otherwise provided in paragraph (7)(B), the Trade Representative may—

(i) select an individual for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 1-year period beginning on April 1 of any calendar year,

(ii) appoint an individual to serve as one of those members of any binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement during such 1-year period who, under the terms of the Agreement, are to be appointed solely by the Government of the United States, or

(iii) act to make a joint appointment with the Government of Canada, under the terms of the Agreement, of any individual who is a citizen or national of the United States to serve as any other member of such a panel or committee, only if such individual is on the appropriate final candidate list that was submitted to the appropriate Congressional Committees under paragraph (4)(A) during such calendar year or on such list as it may be amended under paragraph (5)(D)(i).

(7)(A) Except as otherwise provided in this paragraph, no individual may—

(i) be selected by the Government of the United States for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

(ii) be appointed solely or jointly by the Government of the United States to serve as a member of a binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement, during the 1-year period beginning on April 1 of any calendar year for which the Trade Representative has not met the requirements of this subsection.

(B)(i) Notwithstanding paragraphs (3), (4), or (6)(B) (other than paragraph (3)(A)), individuals listed on the preliminary candidate lists submitted to the appropriate Congressional Committees under paragraph (3)(A) may—

(I) be selected by the Trade Representative for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 3-month period beginning on the date on which the Agreement enters into force, and

(II) be appointed solely or jointly by the Trade Representative under the terms of the Agreement to serve as members of binational panels or extraordinary challenge committees that are convened pursuant to chapter 19 of the Agreement during such 3-month period.

(ii) If the Agreement enters into force after January 3, 1989, the provisions of this subsection shall be applied with respect to the calendar year in which the Agreement enters into force—

(I) by substituting “the date that is 30 days after the date on which the Agreement enters into force” for “January 3 of each calendar year” in paragraphs (1)(B)(i) and (3)(A), and

Government
organization and
employees.

(II) by substituting "the date that is 3 months after the date on which the Agreement enters into force" for "March 31 of each calendar year" in paragraph (4)(A).

(b) **STATUS OF PANELISTS.**—Notwithstanding any other provision of law, individuals appointed by the United States to serve on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist such appointed individuals, shall not be considered to be employees or special employees of, or to be otherwise affiliated with, the Government of the United States.

(c) **IMMUNITY OF PANELISTS.**—With the exception of acts described in section 777f(d)(3) of the Tariff Act of 1930, as added by this Act, individuals serving on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members or assistants to such panelists or committee members.

(d) **REGULATIONS.**—The administering authority under title VII of the Tariff Act of 1930, the United States International Trade Commission, and the United States Trade Representative may promulgate such regulations as are necessary or appropriate to carry out actions in order to implement their respective responsibilities under chapters 18 and 19 of the Agreement. Initial regulations to carry out such functions shall be issued prior to the date of entry into force of the Agreement.

(e) **ESTABLISHMENT OF UNITED STATES SECRETARIAT.**—

(1) The President is authorized to establish within any department or agency of the Federal Government a United States Secretariat which, subject to the oversight of the interagency group established under subsection (a)(1)(A), shall facilitate—

(A) the operation of chapters 18 and 19 of the Agreement, and

(B) the work of the binational panels and extraordinary challenge committees convened under chapters 18 and 19 of the Agreement.

(2) The United States Secretariat established by the President under paragraph (1) shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR THE SECRETARIAT, THE PANELS, AND THE COMMITTEES.

(a) **THE SECRETARIAT.**—There are authorized to be appropriated to the department or agency within which the United States Secretariat described in chapter 19 of the Agreement is established the lesser of—

(1) such sums as may be necessary, or

(2) \$5,000,000,

for each fiscal year succeeding fiscal year 1988 for the establishment and operations of such United States Secretariat and for the payment of the United States share of the expenses of the dispute settlement proceedings under chapter 18 of the Agreement.

(b) **PANELS AND COMMITTEES.**—

(1) There are authorized to be appropriated to the Office of the United States Trade Representative for fiscal year 1989 such sums as may be necessary to pay during such fiscal year the United States share of the expenses of binational panels and

extraordinary challenge committees convened pursuant to chapter 19 of the Agreement.

(2) The United States Trade Representative is authorized to transfer funds appropriated pursuant to the authorization provided under paragraph (1) to any department or agency of the United States in order to facilitate payment of the expenses described in paragraph (1).

(3) Funds appropriated for the payment of expenses described in paragraph (1) during any fiscal year may be expended only to the extent such funds do not exceed the amount authorized to be appropriated under paragraph (1) for such fiscal year. This paragraph shall apply, notwithstanding any law enacted after the date of enactment of this Act, unless such subsequent law specifically provides that this paragraph shall not apply and specifically cites this paragraph.

SEC. 407. TESTIMONY AND PRODUCTION OF PAPERS IN EXTRAORDINARY CHALLENGES. Records.

(a) **AUTHORITY OF EXTRAORDINARY CHALLENGE COMMITTEE TO OBTAIN INFORMATION.**—If an extraordinary challenge committee (hereinafter referred to in this section as the “committee”) is convened pursuant to article 1904(13) of the Agreement, and the allegations before the committee include a matter referred to in article 1904(13)(a)(i) of the Agreement, for the purposes of carrying out its functions and duties under Annex 1904.13 of the Agreement, the committee—

(1) shall have access to, and the right to copy, any document, paper, or record pertinent to the subject matter under consideration, in the possession of any individual, partnership, corporation, association, organization, or other entity,

(2) may summon witnesses, take testimony, and administer oaths,

(3) may require any individual, partnership, corporation, association, organization, or other entity to produce documents, books, or records relating to the matter in question, and

(4) may require any individual, partnership, corporation, association, organization, or other entity to furnish in writing, in such detail and in such form as the committee may prescribe, information in its possession pertaining to the matter.

Any member of the committee may sign subpoenas, and members of the committee, when authorized by the committee, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) **WITNESSES AND EVIDENCE.**—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subsection (a) may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena authorized under subsection (a), the committee may request the Attorney General of the United States to invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization, or other entity, issue an order requiring such individual or entity to appear before the committee, or to produce docu-

Law
enforcement and
crime.

mentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) **MANDAMUS.**—Any court referred to in subsection (b) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this section or any order of the committee made in pursuance thereof.

(d) **DEPOSITIONS.**—The committee may order testimony to be taken by deposition at any stage of the committee review. Such deposition may be taken before any person designated by the committee and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the committee, as provided in this section.

SEC. 408. REQUESTS FOR REVIEW OF CANADIAN ANTIDUMPING AND COUNTERVAILING DUTY DETERMINATIONS.

(a) **REQUESTS FOR REVIEW BY THE UNITED STATES.**—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, requests by the United States for binational panel review under article 1904 of the Agreement shall be made by the United States Secretary, described in article 1909(4) of the Agreement.

Regulations.

(b) **REQUESTS FOR REVIEW BY A PERSON.**—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, a person, within the meaning of article 1904(5) of the Agreement, may request a binational panel review of such determination by filing with the United States Secretary, described in article 1909(4) of the Agreement, such a request within the time limit provided for in article 1904(4) of the Agreement. The receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority shall prescribe by regulations. The request for such panel review shall not preclude the United States, Canada, or any other person from challenging before a binational panel the basis for a particular request for review.

(c) **SERVICE OF REQUEST FOR REVIEW.**—Whenever binational panel review is requested under this section, the United States Secretary shall serve a copy of the request on all persons who would be regarded as interested parties to the proceeding if the determination in question had been made under title VII of the Tariff Act of 1930.

SEC. 409. SUBSIDIES.

(a) **NEGOTIATING AUTHORITY.**—

President of U.S.
Contracts.

(1) The President is authorized to enter into an agreement with Canada, including an agreement to amend the Agreement, on rules applicable to trade between the United States and Canada that—

(A) deal with unfair pricing and government subsidization, and

(B) provide for increased discipline on subsidies.

(2)(A) The objectives of the United States in negotiating an agreement under paragraph (1) include (but are not limited to)—

(i) achievement, on an expedited basis, of increased discipline on government production and export subsidies that have a significant impact, directly or indirectly, on bilateral trade between the United States and Canada; and

(ii) attainment of increased and more effective discipline on those Canadian Government (including provincial) subsidies having the most significant adverse impact on United States producers that compete with subsidized products of Canada in the markets of the United States and Canada.

(B) Special emphasis should be given in negotiating an agreement under paragraph (1) to obtain discipline on Canadian subsidy programs that adversely affect United States industries which directly compete with subsidized imports.

Business and
industry.

(3) The United States members of the working group established under article 1907 of the Agreement shall—

(A) consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding—

(i) the issues being considered by the working group, and

(ii) as appropriate, the objectives and strategy of the United States in the negotiations, and

(B) beginning in January 1990, submit an annual report to such Congressional Committees on the progress being made in the negotiations to obtain an agreement that meets the objectives described in paragraph (2).

Reports.

(4) Notwithstanding any other provision of this Act or of any other law, the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall not apply to any bill or joint resolution that implements an agreement entered into under paragraph (1), unless the President determines and notifies the Congress that such agreement—

(A) will provide greater discipline over government subsidies and no less discipline over unfair pricing practices by producers than that provided by the agreements described in paragraphs (5) and (6) of section 2 of the Trade Agreements Act of 1979 (the Subsidies Code and Antidumping Code), respectively, taking into account the effects of the Agreement, and

(B) will neither undermine such multilateral discipline nor detract from United States efforts to increase such discipline on a multilateral basis in, or subsequent to, the Uruguay Round of multilateral trade negotiations.

(b) IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.—

(1) Any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a United States industry and has reason to believe that—

(A)(i) as a result of implementation of provisions of the Agreement, the industry is likely to face increased competi-

tion from subsidized Canadian imports with which it directly competes; or

(ii) the industry is likely to face increased competition from subsidized imports with which it directly competes from any other country designated by the President, following consultations with the Congress, as benefitting from a reduction of tariffs or other trade barriers under a trade agreement that enters into force after January 1, 1989; and

(B) the industry is likely to experience a deterioration of its competitive position before rules and disciplines relating to the use of government subsidies have been developed with respect to such country;

may file a petition with the United States Trade Representative (hereafter referred to in this section as the "Trade Representative") to be identified under this section.

(2) Within 90 days of receipt of a petition under paragraph (1), the Trade Representative, in consultation with the Secretary of Commerce, shall decide whether to identify the industry on the basis that there is a reasonable likelihood that the industry may face both the subsidization described in paragraph (1)(A) and the deterioration described in paragraph (1)(B).

(3) At the request of an entity that is representative of an industry identified under paragraph (2), the Trade Representative shall—

Records.

(A) compile and make available to the industry information under section 305 of the Trade Act of 1974,

(B) recommend to the President that an investigation by the United States International Trade Commission be requested under section 332 of the Tariff Act of 1930, or

(C) take actions described in both subparagraphs (A) and (B).

The industry may request the Trade Representative to take appropriate action to update (as often as annually) any information obtained under subparagraph (A) or (B), or both, as the case may be, until an agreement on adequate rules and disciplines relating to government subsidies is reached.

(4)(A) The Trade Representative and the Secretary of Commerce shall review information obtained under paragraph (3) and consult with the industry identified under paragraph (2) with a view to deciding whether any action is appropriate under section 301 of the Trade Act of 1974, including the initiation of an investigation under section 302(c) of that Act (in the case of the Trade Representative), or under subtitle A of title VII of the Tariff Act of 1930, including the initiation of an investigation under section 702(a) of that Act (in the case of the Secretary of Commerce).

(B) In determining whether to initiate any investigation under section 301 of the Trade Act of 1974 or any other trade law, other than title VII of the Tariff Act of 1930, the Trade Representative, after consultation with the Secretary of Commerce—

(i) shall seek the advice of the advisory committees established under section 135 of the Trade Act of 1974;

(ii) shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives;

(iii) shall coordinate with the interagency committee established under section 242 of the Trade Expansion Act of 1962; and

(iv) may ask the President to request advice from the United States International Trade Commission.

(C) In the event an investigation is initiated under section 302(c) of the Trade Act of 1974 as a result of a review under this paragraph and the President, following such investigation (including any applicable dispute settlement proceedings under the Agreement or any other trade agreement), determines to take action under section 301(a) of such Act, the President shall give preference to actions that most directly affect the products that benefit from governmental subsidies and were the subject of the investigation, unless there are no significant imports of such products or the President otherwise determines that application of the action to other products would be more effective.

President of U.S.

(5) Any decision, whether positive or negative, or any action by the Trade Representative or the Secretary of Commerce under this section shall not in any way—

(A) prejudice the right of any industry to file a petition under any trade law,

(B) prejudice, affect, or substitute for, any proceeding, investigation, determination, or action by the Secretary of Commerce, the United States International Trade Commission, or the Trade Representative pursuant to such a petition,

(C) prejudice, affect, substitute for, or obviate any proceeding, investigation, or determination under section 301 of the Trade Act of 1974, title VII of the Tariff Act of 1930, or any other trade law.

(6) Nothing in this subsection may be construed to alter in any manner the requirements in effect before the enactment of this Act for standing under any law of the United States or to add any additional requirements for standing under any law of the United States.

SEC. 410. TERMINATION OF AGREEMENT.

(a) IN GENERAL.—If—

(1) no agreement is entered into between the United States and Canada on a substitute system of rules for antidumping and countervailing duties before the date that is 7 years after the date on which the Agreement enters into force, and

(2) the President decides not to exercise the rights of the United States under article 1906 of the Agreement to terminate the Agreement,

the President shall submit to the Congress a report on such decision which explains why continued adherence to the Agreement is in the national economic interest of the United States.

President of U.S.
Reports.

(b) TRANSITION PROVISIONS.—

(1) If on the date on which the Agreement should cease to be in force an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(d) of the Tariff Act of 1930 (as amended by this Act) or a Canadian undertaking is pending, such investigation or proceeding shall continue and sanctions may continue to be imposed in accordance with the provisions of such section.

(2) If on the date on which the Agreement should cease to be in force a binational panel review under article 1904 of the Agreement is pending, or has been requested, with respect to a determination to which section 516A(g)(2) of the Tariff Act of 1930 (as added by this Act) applies, such determination shall be reviewable under section 516A(a) of the Tariff Act of 1930. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under section 516A(a)(2)(A) of the Tariff Act of 1930 shall not begin to run until the date on which the Agreement ceases to be in force.

19 USC 2112
note.

TITLE V—EFFECTIVE DATES AND SEVERABILITY

SEC. 501. EFFECTIVE DATES.

(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of this Act, and the amendments made by this Act, shall take effect on the date the Agreement enters into force.

(b) **EXCEPTIONS.**—Sections 1 and 2, title I, section 304 (except subsection (f)), section 309, this section and section 502 shall take effect on the date of enactment of this Act.

(c) **TERMINATION OF PROVISIONS AND AMENDMENTS IF AGREEMENT TERMINATES.**—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection and section 410(b)), and the amendments made by this Act, shall cease to have effect.

SEC. 502. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such a provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 5090:

HOUSE REPORTS: No. 100-816, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Interior and Insular Affairs), Pt. 3 (Comm. on Foreign Affairs), Pt. 4 (Comm. on the Judiciary), Pt. 5 (Comm. on Banking, Finance and Urban Affairs), Pt. 6 (Comm. on Government Operations), Pt. 7 (Comm. on Energy and Commerce), and Pt. 8 (Comm. on Agriculture).

SENATE REPORTS: No. 100-509 (Comm. on Finance; Comm. on Agriculture, Nutrition, and Forestry; Comm. on Energy and Natural Resources; and Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 9, considered and passed House.

Sept. 19, considered and passed Senate.

Public Law 100-450
100th Congress

Joint Resolution

To designate the week of September 23-30, 1988, as "National American Indian Heritage Week".

Sept. 28, 1988

[S.J. Res. 322]

Whereas American Indians were the original inhabitants of the territories that now constitute the United States of America; Whereas American Indians and their descendants have made many essential contributions to our nation;

Whereas the citizens of the United States should be reminded of the assistance given to our Founding Fathers by the native Americans;

Whereas the citizens of the United States should be aware of the present relationship between the American Indians and the United States; and

Whereas the last week in September begins the harvest season in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 23-30, 1988, is designated as "National American Indian Heritage Week". The President is authorized and requested to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved September 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 322:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 23, considered and passed House.

Public Law 100-451
100th Congress

Joint Resolution

Sept. 28, 1988

[S.J. Res. 336]

Designating October 16, 1988, as "World Food Day".

- Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;
- Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;
- Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;
- Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;
- Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of their peoples;
- Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;
- Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;
- Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;
- Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;
- Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;
- Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;
- Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;
- Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world

and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1988, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1988, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

Approved September 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 336:

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 26, considered and passed Senate.

Sept. 16, considered and passed House.

Public Law 100-452
100th Congress

Joint Resolution

Sept. 29, 1988

[H.J. Res. 600]

To commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

- Whereas the passage of the Federal Food, Drug, and Cosmetic Act on June 25, 1938, was a landmark event in the protection of the public health;
- Whereas this Act remains the basic law enforced by the Food and Drug Administration;
- Whereas the Food and Drug Administration has over the course of the last 50 years established rigorous standards for food and drug safety that have been respected and emulated throughout the world;
- Whereas the Food and Drug Administration's efforts have helped make America's food supply the world's safest;
- Whereas the agency has developed the world's most advanced drug review system—a system which has assured the safety and efficacy of the Nation's pharmaceutical products;
- Whereas the advanced scientific approach toward drug review adopted by the Food and Drug Administration has contributed enormously to the betterment of science, medicine, and health of the American people;
- Whereas the Food and Drug Administration has consistently improved this system to make it responsive to the changing needs of the American people, technology, and the marketplace;
- Whereas the Food and Drug Administration has diligently protected the American public against products that have been misformulated, misbranded, or adulterated;
- Whereas this effort has sustained the American public's high level of confidence in the basic safety of the marketplace over the past 50 years;
- Whereas the Food and Drug Administration through its regulation of the Nation's blood networks has maintained the basic safety and efficient functioning of America's blood supply;
- Whereas the Food and Drug Administration has the responsibility for regulation of products representing 25 percent of each consumer dollar spent and has successfully met its tremendous responsibilities even in the face of limited resources; and
- Whereas the men and women of the Food and Drug Administration have worked tirelessly, and often at great personal sacrifice, in order to perform their vital service to the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes as an important anniversary the passage of the Federal Food, Drug, and Cosmetic Act. The President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe this anniversary with appropriate ceremonies and activities.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 600 (S.J. Res. 320):

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 11, considered and passed House.

July 26, S.J. Res. 320 considered and passed Senate.

Sept. 14, H.J. Res. 600 considered and passed Senate.

Public Law 100-453
100th Congress

An Act

Sept. 29, 1988

[H.R. 4387]

Intelligence
Authorization
Act, Fiscal Year
1989.

To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The Drug Enforcement Administration.

Reports.

(b) None of the funds authorized to be appropriated by this Act may be used to procure more than three Guardrail RC-12K aircraft and sensor suites until the Department of the Army has submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives and to the Committee on Armed Services of the Senate a report detailing the long-range plans and budgetary commitments to meet the future requirements for tactical airborne reconnaissance in support of the United States Army. The report should include, but not be limited to, the contribution of remotely piloted vehicles and other reconnaissance assets.

(c) Of the funds authorized to be appropriated in this Act for the Defense Intelligence Agency, the Secretary of Defense may transfer not to exceed \$15,100,000 to appropriations for the foreign counterintelligence activities of the Federal Bureau of Investigation.

(d) The expiration date provided for in section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) shall be extended until December 31, 1989.

Termination
date.
5 USC 9101 note.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the Classified Schedule of Authorizations prepared by the committee in conference to accompany H.R. 4387 of the One Hundredth Congress.

(b) The Schedule of Authorizations described in subsection (a) shall be made available to the Committee on Appropriations of the Senate and of the House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, and of appropriate portions of the Schedule, within the executive branch.

President of U.S.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number shall not, for any element of the Intelligence Community, exceed 2 percentum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS
IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the Classified Schedule of Authorizations referred to in section 102, pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1989 the sum of \$23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-four full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

Government
organization and
employees.
Armed Forces.

(c) During fiscal year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1989 the sum of \$144,500,000.

COMPARABILITY OF CERTAIN SPOUSE PROVISIONS WITH CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new section:

“SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES AND SECOND CHANCE TO ELECT SURVIVOR ANNUITY FOR CERTAIN SPOUSES

Regulations.

“SEC. 226. (a) The Director shall prescribe regulations under which any previous spouse (including former spouses who are also previous spouses), divorced after the effective date of this section from a participant, former participant, or annuitant whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section, shall be eligible for a survivor annuity to the same extent, and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to spouses of participants in the Civil Service Retirement and Disability System (CSRS) married for at least nine months with service creditable under section 8332 of title 5, United States Code.

“(b) The Director shall prescribe regulations under which participants, retired participants, and former participants who have separated from service with a deferred annuity may make an election within two years after the effective date of this section (or, if later,

at the time of retirement) to receive a reduced annuity, pay a deposit, and provide a survivor annuity for any spouse for whom survivor benefits were not elected at the time of retirement, or (if the marriage occurred after retirement) were not elected in a timely manner, and for any previous spouse (including former spouses who are also previous spouses) who is not eligible for a survivor annuity under subsection (a) of this section, under, to the greatest extent practicable, the same terms and conditions as those prescribed for participants in the Civil Service Retirement and Disability System (CSRS) by the Civil Service Retirement Spouse Equity Act of 1984.

“(c) As used in this section, the term ‘previous spouse’ means a former wife or husband who was married for at least nine months to a participant or former participant who had at least eighteen months of service which are creditable under sections 251, 252, and 253 of this Act.

“(d) This section shall take effect on the date of enactment of the Intelligence Authorization Act, Fiscal Year 1989.”.

Effective date.

(b)(1) Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(A) in subsection (a)(2), by inserting “an amount equal to any survivor annuity payments made to the former spouse under section 223 and also by” after “shall be reduced by”; and

(B) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) The amendments made by paragraph (1) shall take effect as of October 1, 1986.

Effective date.
50 USC 403 note.

(c)(1) Section 225(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting “and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982,” after “1982”.

(2) The amendment made by paragraph (1) shall take effect as of December 2, 1987.

Effective date.
50 USC 403 note.

(d)(1) The third sentence of section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out “one year” and inserting in lieu thereof “nine months after the date of remarriage”.

(2) Section 221 of title II of such Act is amended by adding at the end thereof the following new subsection:

“(p) The election of a survivor annuity and the reduction of an annuity under subsection (f)(2) or (n) of this section shall take effect on the first day of the first month beginning nine months after the date of marriage. For the purposes of this subsection, the nine-month period shall be deemed to be satisfied in any case in which—

“(1) the annuitant dies within such period;

“(2) the surviving spouse of the annuitant had been previously married to the annuitant and subsequently divorced; and

“(3) the aggregate time married is at least nine months.”.

(3) The amendment made by this subsection shall apply to marriages which occur on or after May 7, 1985.

Effective date.
50 USC 403 note.
50 USC 403 note.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

TITLE IV—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EQUAL EMPLOYMENT OPPORTUNITY PLAN

Reports.

50 USC 403 note.

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1, 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of each equal employment opportunity group.

(c) For purposes of this section, the term "equal employment opportunity group" means—

- (A) white women,
- (B) black men,
- (C) black women,
- (D) Hispanic men,
- (E) Hispanic women,
- (F) Asian American and Pacific Islander men,
- (G) Asian American and Pacific Islander women,
- (H) Native American and Alaskan Native men, or
- (I) Native American and Alaskan Native women.

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

50 USC 401 note.

SEC. 404. (a) This section is enacted to ensure that current disclosure policy is incorporated into law.

(b) Except as provided in subsection (c), the head of each department or agency—

- (1) with respect to which funds are authorized under this Act, and

(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict, shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen.

Vietnam.

Records.

(c) Subsection (b) does not apply with respect to—

(1) information that would reveal or compromise sources and methods of intelligence collection; or

(2) specific information that previously has been made available to the next-of-kin.

(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use.

Reports.

FERS-CIARDS SPECIAL ELECTION AUTHORITY

SEC. 502. (a) Subsection (d) of section 301 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is redesignated as subsection (e).

50 USC 403 note.

(b) A new subsection (d) is added after subsection (c) as follows:

“(d) An employee who has been designated as a participant in the Central Intelligence Agency Retirement System after December 31, 1987, pursuant to section 203 of this Act, may elect to become subject to chapter 84 of title 5, United States Code. An election under this paragraph—

“(1) shall not be effective unless it is made during the six-month period after the enactment of this section, or during the six-month period beginning on the date on which the employee is so designated, whichever comes later;

“(2) shall take effect beginning with the first pay period beginning after the date of the election; and

“(3) shall be irrevocable.”.

AUTHORITY TO COMPENSATE RETIRED MILITARY PERSONNEL SERVING
ON DCI ADVISORY COMMITTEES

Uniformed
services.

SEC. 503. Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by adding at the beginning of the last sentence "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation,"; and by changing the word immediately thereafter from "Other" to "other".

REPORTS CONCERNING INSPECTOR GENERAL ACTIVITIES

SEC. 504. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after section 16 the following new section:

"REPORTS OF INSPECTOR GENERAL ACTIVITIES

50 USC 403q.

"SEC. 17. The Director of Central Intelligence shall furnish to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the following reports relating to the activities of the Inspector General at the Central Intelligence Agency.

"(a) A report made at the time any Inspector General is selected by the Director of Central Intelligence, specifying the name of the person selected, and certifying that such selection was made without regard to political affiliation. Such report shall also include a certification that the person selected meets Central Intelligence Agency security requirements and has had prior senior experience in the foreign intelligence field. It should also describe the background of such person as it relates to his or her experience in accounting, law, financial analysis, management analysis, public administration, or other field directly relevant to the performance of functions assigned the Inspector General.

"(b) A report made at the time any Inspector General is removed by the Director of Central Intelligence, specifying the basis for such removal.

"(c) Semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General for the preceding six-month period. Such reports shall include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations, and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevant to his activities; (iii) a description of any violation of law or willful violation of regulations, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting period in response to Inspector General recommendations.

"(d) A report of any decision made by the Director of Central Intelligence to prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation within the Central Intelligence Agency, to be made within seven days of such decision.

"(e) A report of any other decision made by the Director of Central Intelligence which would substantially affect the ability of the Inspector General to carry out his duties and responsibilities. Such

report shall include the position of the Inspector General with respect to such decision, and be transmitted within seven days to the committees.”.

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing—

(1) lump-sum payments to personnel upon directed assignment to the New York Field Division from another geographical location who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division, except that no lump-sum payment under this paragraph may exceed \$20,000, and no employee shall be eligible to receive more than one lump-sum payment under this paragraph in connection with each such assignment; and

Contracts.

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or reassignment, except that the amounts paid under this paragraph to an employee for any period may not be less than 20 per centum nor greater than 25 per centum of the basic pay paid or payable to such employee for service performed during such period.

Any lump-sum payment under paragraph (1) and any periodic payment under paragraph (2) shall be in addition to basic pay. Any authority to make payments under this section shall be effective only to the extent of available appropriations.

(b) Such demonstration project shall commence not later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law.

Effective date.
Termination
date.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the five year period, a final evaluation concerning the results of the demonstration project.

Reports.

TITLE VII—DEPARTMENT OF DEFENSE

INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of title 10, United States Code, is amended to read as follows:

“§ 421. Funds for foreign cryptologic support

“(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

Communications
and tele-
communications.

“(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

“(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

“(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

“(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

reports.

“(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.”.

(b) The reference to section 421 in the sections at the beginning of chapter 21 of such title is amended to read “Funds for Foreign Cryptologic Support.”.

AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

SEC. 702. Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

“(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

“(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

“(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.”.

REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE AGENCY ORGANIZATIONAL AND PERSONNEL INFORMATION

SEC. 703. (a) Section 1607 of title 10, United States Code (as added by section 603 of Public Law 100-178), is transferred to the end of chapter 21, redesignated as section 424, and amended to read as follows:

“§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency

“(a) Except as required by the President or as provided in subsection (b), the Secretary of Defense may not be required to disclose information with respect to—

“(1) the organization or any function of the Defense Intelligence Agency; or

“(2) the number of persons employed by or assigned or detailed to such Agency or the name, official title, occupational series, grade, or salary of any such person.

“(b) This section does not apply—

“(1) with respect to the provision of information to Congress;

or

“(2) with respect to information required to be disclosed by section 552 or 552a of title 5.”.

(b) The table of sections at the beginning of chapter 21 of such title is amended by adding at the end the following new item:

“424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency.”.

DEFENSE ATTACHÉ DEATH GRATUITY

SEC. 704. (a) During fiscal year 1989, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense attaché office outside the United States, died as a result of hostile or terrorist activities.

Armed Forces.
Terrorism.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1989, a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense attaché office outside the United States, dies as a result of hostile or terrorist activities.

Reports.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4387 (S. 2366):

HOUSE REPORTS: No. 100-591 Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services), and No. 100-879 (Comm. of Conference).

SENATE REPORTS: No. 100-334 (Select Comm. on Intelligence) and No. 100-404 (Comm. on Armed Services) accompanying S. 2366.

CONGRESSIONAL RECORD, Vol. 134 (1988):

May 26, considered and passed House.

Aug. 5, considered and passed Senate, amended, in lieu of S. 2366.

Sept. 14, House agreed to conference report.

Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 29, Presidential statement.

Public Law 100-454
100th Congress

Joint Resolution

Sept. 29, 1988
[H.J. Res. 665]

Authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent, post-enactment preparation of printed enrollments of those bills.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

1 USC 106 note. SECTION 1. HAND ENROLLMENT AUTHORIZED FOR GENERAL APPROPRIATIONS BILLS.

(a) WAIVER OF CERTAIN LAWS WITH RESPECT TO PRINTING OF ENROLLED BILLS.—During the remainder of the second session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any general appropriations bill making appropriations for the fiscal year ending September 30, 1989.

(b) CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of any such bill shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

1 USC 106 note. SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENTS.

(a) PREPARATION.—

(1) IN GENERAL.—Upon the enactment of a bill following presentment of such bill to the President in the form of a hand enrollment pursuant to the authority of section 1 of this resolution, the Clerk of the House of Representatives shall prepare a printed enrollment of that bill as in the case of a bill to which sections 106 and 107 of title 1, United States Code, apply.

(2) LIMITED STYLISTIC CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officer of each House of Congress as a correct printing of the hand enrollment and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be considered for all purposes as the original enrollment of the bill concerned and as valid evidence of the enactment of that bill.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the

United States, who shall preserve it with the hand enrollment. In preparing the bill concerned for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) **HAND ENROLLMENT DEFINED.**—As used in this section, the term “hand enrollment” means the enrollment, as authorized by section 1, of a bill for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 665:

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 28, considered and passed House and Senate.

Public Law 100-455
100th Congress

Joint Resolution

Sept. 29, 1988

[S.J. Res. 329]

To designate October 24 through October 30, 1988, as "Drug Free America Week".

Whereas illicit drug and alcohol abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas illegal drug and alcohol use is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas drug and alcohol abuse cost American society nearly \$100,000,000,000 a year in lost productivity;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status as evidenced by the following statistics:

(1) twenty-three million Americans age twelve and over currently use illicit drugs,

(2) a nationwide Weekly Reader survey revealed that of the sixty-eight thousand fourth graders polled, 34 per centum reported peer pressure to try wine coolers, 41 per centum to smoke, and 24 per centum to use crack or cocaine,

(3) the fifteen-to-twenty-four-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse;

Whereas the problem is not insurmountable. Americans have begun to lay the foundation; however, we must continue to build on the important strides we have made in our efforts to prevent illegal drug and alcohol use. The most recent national polls reveal that progress has been made—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use among this group was at its lowest level in eleven years,

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 per centum in 1986 to 48 per centum in 1987, and

(3) illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas the American people indicate that drug abuse is one of the most serious domestic problems facing this Nation according to public opinion polls and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 23 through October 30, 1988, as "National Red Ribbon Week"—a comprehensive public education and fund-raising drive, involving thousands of parent groups across the country;

Whereas other outstanding groups such as the American Council for Drug Education, the Just Say No Foundation, the National Par-

ents Resource Institute for Drug Education, TARGET, the National Crime Prevention Council, the Elks, and others have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas we must get the message across that any use of an illegal drug is unacceptable—that there is no safe use of these drugs—and that illegal drug use will not be tolerated;

Whereas drug and alcohol abuse undermines our economy, threatens our national security, affects productivity, and ruins and destroys lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 24 through October 30, 1988, be designated as “Drug Free America Week”. The Senate of the United States recognizes and commends the hard work and dedication of concerned parents, educators, business leaders, private sector organizations, and government leaders and urges them to continue their tenacious efforts. The Senate urges these groups to sponsor town meetings, conferences, and fundraising activities that support community drug and alcohol education and to observe “Drug Free America Week” with other appropriate activities, events, and educational campaigns.

SEC. 2. Every American is encouraged to wear red during the Drug Free America Week” to symbolize their commitment to a healthy, drug-free lifestyle.

Approved September 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 329:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-456
100th Congress

An Act

Sept. 29, 1988

[H.R. 4481]

National
Defense
Authorization
Act, Fiscal Year
1989.

To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the “National Defense Authorization Act, Fiscal Year 1989”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

- (1) Division A—Department of Defense and other National Defense Authorizations.
- (2) Division B—Military Construction Authorizations.

SEC. 3. TABLE OF CONTENTS

The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Organization of Act into divisions.
Sec. 3. Table of contents.
Sec. 4. Statutory construction.

**DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL
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TITLE I—PROCUREMENT

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- Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Chemical demilitarization program.
Sec. 106. Reserve components.
Sec. 107. Authorized multiyear contracts.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

- Sec. 111. Army programs.
Sec. 112. Navy programs.
Sec. 113. Air Force programs.
Sec. 114. Interim infantry anti-tank weapon.
Sec. 115. Source selection authority for the palletized loading system.
Sec. 116. BIGEYE binary chemical bomb.
Sec. 117. Management of certain defense procurement programs.
Sec. 118. Modifications in chemical demilitarization program.
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TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

- Sec. 201. Authorization of appropriations.
Sec. 202. Funding for ICBM modernization programs.
Sec. 203. DARPA nuclear monitoring program.

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PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

- Sec. 211. Trident II missile program.
- Sec. 212. Balanced Technology Initiative.
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- Sec. 214. Air-to-air missile project office.
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- Sec. 219. Depressed-trajectory ballistic missiles.
- Sec. 220. Requirement of competition for award of grants and contracts to colleges and universities for certain purposes.

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- Sec. 221. Funding for the Strategic Defense Initiative for fiscal year 1989.
- Sec. 222. Report on allocation of SDI funding for fiscal year 1989.
- Sec. 223. Development and testing of antiballistic missile systems or components.
- Sec. 224. Accidental launch protection.

PART D—STRATEGIC PROGRAMS

- Sec. 231. B-1B Bomber program.
- Sec. 232. Advanced Technology B-2 Bomber program.
- Sec. 233. Sense of Congress on strategic missile modernization programs.

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- Sec. 241. Advanced Submarine Technology Program.
- Sec. 242. Prohibition on testing electromagnetic pulse in Chesapeake Bay.
- Sec. 243. Report on space control capabilities.
- Sec. 244. Report on competition for development of Advanced Tactical Reconnaissance System.

TITLE III—OPERATION AND MAINTENANCE

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- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Humanitarian assistance.
- Sec. 304. Tripler Army Medical Center.
- Sec. 305. Assistance to the 1990 Goodwill Games.
- Sec. 306. Inauguration assistance.
- Sec. 307. Enhancement of capability to combat fraud, waste, and abuse.

PART B—LIMITATIONS

- Sec. 311. Prohibition on financing certain activities by direct appropriations.
- Sec. 312. Prohibition on joint use of Dobbins Air Force Base with civil aviation.
- Sec. 313. Prohibition on purchase of Toshiba products for resale in military exchange stores.
- Sec. 314. Limitation on funding for United States Southern Command airlift.
- Sec. 315. One-year extension of limitation on Army depot maintenance funding.
- Sec. 316. Operation of SR-71 depot rework facility.
- Sec. 317. Management of civilian personnel during fiscal years 1989 and 1990.
- Sec. 318. Limitation on operation of existing Poseidon class submarines U.S.S. James Monroe and U.S.S. Henry Clay.

PART C—PERMANENT LAW CHANGES

- Sec. 321. Limitation on private operation of commissary stores.
- Sec. 322. Allowable costs with respect to certain service contracts performed overseas.
- Sec. 323. Authority to continue support of scouting activities overseas.
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- Sec. 516. Extension of transition to joint duty assignment staffing requirements.
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- Sec. 2829. Land conveyance, Fort Jackson, South Carolina.

SEC. 4. STATUTORY CONSTRUCTION

(a) **ORDER OF ENACTMENT WITH APPROPRIATIONS ACT.**—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989 (regardless of the actual dates of enactment concerned).

(b) **TERMINATION OF REFERENCED AUTHORIZATION PROVISION.**—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AU- THORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

- (1) For aircraft, \$2,883,700,000.
- (2) For missiles, \$2,605,200,000.
- (3) For weapons and tracked combat vehicles, \$2,915,100,000.
- (4) For ammunition, \$2,064,036,000.
- (5) For other procurement, \$4,580,346,000, of which—
 - (A) \$872,671,000 is for tactical and support vehicles;
 - (B) \$2,811,727,000 is for communications and electronics equipment; and
 - (C) \$895,948,000 is for other support equipment.

SEC. 102. NAVY AND MARINE CORPS

(a) **AIRCRAFT.**—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft for the Navy in the amount of \$9,259,253,000.

(b) **WEAPONS.**—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of weapons (including missiles and torpedoes) for the Navy in the amount of \$5,972,181,000. Amounts authorized under the preceding sentence are available as follows:

- (1) For ballistic missile programs, \$1,872,538,000.
- (2) For other missile programs, \$3,203,737,000.
- (3) For torpedo programs, \$700,054,000 as follows:
 - For the MK-48 torpedo program, \$431,014,000.
 - For the MK-50 torpedo program, \$198,547,000.
 - For the Vertical Launched ASROC program, \$17,552,000.
 - For the modification of torpedoes and related equipment, \$3,289,000.
 - For the torpedo support equipment program, \$25,988,000.
 - For the antisubmarine warfare range support program, \$22,664,000.

(4) For other weapons, \$108,440,000, of which—

(A) \$19,449,000 is for the MK-15 close-in weapon system;
and

(B) \$54,557,000 is for the close-in weapon system modification program.

(5) For spares and repair parts, \$87,412,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1989 for shipbuilding and conversion for the Navy in the amount of \$9,056,100,000. Amounts authorized under the preceding sentence are available as follows:

For the Trident submarine program, \$1,368,100,000.

For the SSN-688 nuclear attack submarine program, \$1,493,600,000.

For the SSN-21 nuclear attack submarine program, \$1,488,000,000.

For the aircraft carrier service life extension program (SLEP), \$135,400,000.

For the DDG-51 guided missile destroyer program, \$2,207,300,000.

For the LHD-1 amphibious assault ship program, \$737,500,000.

For the MHC coastal minehunter program, \$197,200,000.

For the TAG-187 fleet oiler program, \$284,900,000.

For the AO (Jumbo) conversion program, \$84,900,000.

For the TAGOS ocean surveillance ship program, \$159,600,000.

For the AOE fast combat support ship program, \$363,900,000.

For the landing craft, air cushion (LCAC) program, \$192,600,000.

For outfitting and post delivery, \$343,100,000.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for other procurement for the Navy in the amount of \$4,817,750,000. Amounts authorized under the preceding sentence are available as follows:

(1) For the ship support equipment program, \$649,740,000.

(2) For the communications and electronics equipment program, \$1,548,164,000.

(3) For aviation support equipment, \$550,692,000.

(4) For the ordnance support equipment program, \$1,135,671,000.

(5) For civil engineering support equipment, \$109,061,000.

(6) For supply support equipment, \$126,495,000.

(7) For personnel and command support equipment, \$470,731,000.

(8) For spares and repair parts, \$227,196,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of \$1,297,265,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

(1) For aircraft, \$16,125,024,000.

(2) For missiles, \$7,716,533,000.

(3) For other procurement, \$8,196,782,000, of which—

(A) \$605,087,000 is for munitions and associated support equipment;

- (B) \$279,768,000 is for vehicular equipment;
- (C) \$1,893,245,000 is for electronics and telecommunications equipment; and
- (D) \$5,418,682,000 is for other base maintenance and support equipment.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Defense Agencies in the amount of \$1,205,100,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of \$179,500,000, of which—

- (1) \$44,800,000 is for procurement;
- (2) \$17,900,000 is for research, development, test, and evaluation; and
- (3) \$117,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:

- For the Army National Guard, \$240,000,000.
- For the Air National Guard, \$216,500,000.
- For the Army Reserve, \$30,000,000.
- For the Naval Reserve, \$75,000,000.
- For the Air Force Reserve, \$232,000,000.
- For the Marine Corps Reserve, \$50,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsections (d) and (e), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

- (1) CH-47D helicopter modification.
- (2) Multiple Launch Rocket System (MLRS).
- (3) T-700 helicopter engine.
- (4) AH-64 Apache helicopters.
- (5) M1 Abrams tanks for 3,000 tanks.

(b) NAVY AND MARINE CORPS.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

- (1) AV-8B aircraft.
- (2) UHF Follow-On Satellite System.

(c) AIR FORCE.—Subject to subsections (d) and (e), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:

- (1) F-16 aircraft.
- (2) Defense Meteorological Satellite Program (DMSP).

CONDITIONS.—A multiyear contract authorized by this section not be entered into unless each of the following conditions is satisfied:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 12 percent savings as compared to annual contracts if no recent contract experience exists.

NEGOTIATED PRICED OPTIONS.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract under this section negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

11. ARMY PROGRAMS

ADATS AIR DEFENSE WEAPON.—(1) The Secretary of the Army may obligate funds appropriated for fiscal year 1989 for procurement of the ADATS Air Defense Weapon system in the amount of \$100,000 for production of five fire units and 60 missiles to be used specifically for production qualification testing and operational testing. Funds may be obligated for such purpose only after the Director of Operational Test and Evaluation of the Department of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that he has approved the plan for the production qualification testing and operational testing for such system.

The Secretary of the Army may obligate funds for procurement of advanced procurement for such system for any fiscal year after fiscal year 1989 only after—

(A) the operational tests for such system are completed;

(B) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that the system meets or exceeds the operational performance criteria of the Army;

(C) the Director of Operational Test and Evaluation of the Department of Defense provides to those Committees his evaluation of the performance of the system; and

(D) the Comptroller General of the United States provides to those Committees his evaluation of the performance of the system.

MORTARS.—The Secretary of the Army may not obligate funds appropriated for fiscal year 1989 for procurement of 120-millimeter mortars or 4.2-inch mortars (or for procurement of ammunition for such mortar) until the Secretary does each of the following:

(1) Submits to Congress a new master plan for Army mortars, including a description of the status of 4.2-inch mortars (and the ammunition for such mortars) and the status of any proposed upgrade of such mortar or ammunition.

(2) Certifies to Congress that the current Five-Year Defense Program provides for funding for the initiatives set forth in such master plan.

(3) Completes the analysis (referred to as an "Arsenal Act analysis") of the cost-effectiveness of using domestic sources (as provided under section 4532 of title 10, United States Code) for manufacture of 120-millimeter mortars that was specified in section 122(a)(2) of Public Law 99-661.

(c) 155-MILLIMETER BASE BURN ASSEMBLY UNITS.—(1) If the contractor for low-rate initial production of base burn assembly units for the 155-millimeter M864 artillery projectile certifies to the Secretary of the Army that the contractor is willing to finance the expenses of preparing facilities and equipment at (and otherwise "facilitating") a Government-owned contractor-operated Army ammunition plant for production of such base burn assembly units, the Secretary shall contract with that contractor for production of not less than 96,000 of such units with funds appropriated for such program for each of fiscal years 1989 and 1990 (for a production rate of not less than 8,000 units per month under the program for those fiscal years).

(2) In carrying out the program for production of such base burn assembly units, the Secretary of the Army, through the use of competitive procedures, shall select a second source producer for such base burn assembly units during fiscal year 1989.

SEC. 112. NAVY PROGRAMS

(a) AH-1W GROUND SUPPORT EQUIPMENT.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, \$55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(b) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, \$1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) DDG-51 DESTROYER PROGRAM COMPETITION.—Notwithstanding the proviso to the item relating to the DDG-51 destroyer program in the paragraph under the heading "SHIPBUILDING AND CONVERSION, NAVY" in title III of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), the Secretary of the Navy may limit competition for the shipbuilding portion of the DDG-51 destroyer program for any fiscal year to the two shipyard contractors to which such competition was limited on December 21, 1987 (the day before the date of the enactment of Public Law 100-202), if the Secretary certifies to the Committees on Armed Services of the Senate and House of Representatives that the limitation of such competition to those contractors either—

(1) would likely result in a lower total cost to the United States for the fiscal year 1989 program than would result from including other shipyard contractors in the competition; or

(2) is necessary to meet the cost, schedule, or performance requirements of the Navy or such other requirements of the Navy as may be determined by the Secretary.

USE OF PRIOR YEAR FUNDS FOR DDG-51 DESTROYER PRO-
—(1) There are hereby authorized to be transferred to the building and conversion program for the Navy for fiscal year to the extent provided in appropriation Acts, amounts that appropriated for the Department of Defense for fiscal year or any prior fiscal year that remain available for obligation that are no longer required for the purpose for which originally appropriated. The total amount transferred pursuant to the authority in this section may not exceed \$730,000,000. Amounts transferred pursuant to this section shall be used for the procurement of one DDG-51 class guided missile destroyer.

The authority to transfer amounts under this subsection is in addition to any other authority to transfer amounts provided in this or any other Act.

A transfer pursuant to the authority provided by this section shall not extend the period of availability for obligation of the amounts so transferred.

MARINE CORPS TACTICAL RADIOS.—Amounts previously appropriated to the Navy for procurement of TSEC/KY-67 (Bancroft) and that are available for obligation may be obligated only for the procurement of SINCGARS radios.

5-INCH SEMIACTIVE LASER-GUIDED PROJECTILE PROGRAM.—Of the funds appropriated or otherwise made available for other purposes for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such funds as necessary for the 5-inch semiactive laser-guided projectile program in order to complete the production qualification of 150 of such projectiles, with 50 such projectiles to be produced by each of the three established competitive sources.

3. AIR FORCE PROGRAMS

AIR NATIONAL GUARD USE OF CERTAIN AIRCRAFT.—The Secretary of the Air Force may authorize the Air National Guard to use C-130 aircraft (and support equipment related to such aircraft) that are in long-term storage at Air Force plant #6, Marietta, Georgia. Of funds appropriated for the Air Force for fiscal year 1989 for modification of C-130 aircraft, \$17,500,000 shall be available only to refurbish such aircraft for full operational use.

AIR FORCE LAUNCH FACILITY.—Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be used or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of the SLC-7 expendable launch vehicles), identified as the SLC-7 Launch Facility.

4. INTERIM INFANTRY ANTI-TANK WEAPON

DETERMINATION OF INTERIM INFANTRY ANTI-TANK WEAPON.—The Secretary of the Army shall select an interim infantry anti-tank weapon from among the Milan II weapon, the Bofors Bill weapon, the Generation II weapon, and the Marine Corps Dragon weapon III weapon. The selection shall be based on the Secretary's determination of which of such weapons is the most effective weapon on the basis of all of the operational testing and evaluation of those weapons conducted as of June 1, 1989. The Secretary shall manage the program for the weapon selected so that the weapon is ready to enter into low-rate initial production during fiscal year 1990.

Reports.

(b) **OT&E ASSESSMENT.**—The Director of Operational Test and Evaluation of the Department of Defense shall conduct an independent assessment of the operational tests and evaluations referred to in subsection (a). The Director shall submit a report on such assessment to the Committees on Armed Services of the Senate and House of Representatives not later than June 1, 1989.

SEC. 115. SOURCE SELECTION AUTHORITY FOR THE PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1068) is amended by striking out “The Under Secretary of Defense for Acquisition” at the beginning of the second sentence and inserting in lieu thereof “The Acquisition Executive for the Department of the Navy”.

SEC. 116. BIGEYE BINARY CHEMICAL BOMB

(a) **AUTHORIZED PROCUREMENT FOR TESTING.**—(1) Except as provided in paragraph (2), funds appropriated or otherwise made available to the Department of Defense for fiscal years before fiscal year 1989 for procurement under the BIGEYE binary chemical bomb program may be obligated or expended in connection with such program only for procurement of production-configured bombs. Any bombs procured under the preceding sentence may be used only in conducting required follow-on operational testing scheduled to be performed during fiscal years 1989 and 1990.

(2) Any such funds not obligated for the purpose described in paragraph (1) may be used for the purpose of maintaining program continuity for the BIGEYE bomb program.

(3) None of the funds referred to in paragraphs (1) and (2) may be used for low-rate initial production.

(b) **CONDITIONS FOR OBLIGATION OF FUNDS FOR PROCUREMENT.**—Except as provided in subsection (f), funds appropriated or otherwise made available to the Department of Defense after the date of the enactment of this Act may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, or for any component of such bomb or the assembly of such bomb, until the reports required by subsections (c) and (d) have been submitted in accordance with those subsections and only then if neither of those reports includes a certification that one or more of the production certification conditions has not been met.

Reports.

(c) **CERTIFICATION BY DIRECTOR, OT&E.**—Upon the completion of operational and developmental tests conducted in connection with the BIGEYE binary chemical bomb program, the Director of Operational Test and Evaluation of the Department of Defense shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Director, such condition has been met.

Reports.

(d) **CERTIFICATION BY COMPTROLLER GENERAL.**—Upon the submission of the report under subsection (c), the Comptroller General of the United States shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Comptroller General, such condition has been met.

(e) **PRODUCTION CERTIFICATION CONDITIONS.**—For purposes of this section, the term “production certification conditions” means, with

t to the operational and developmental tests of the BIGEYE each of the following:

- (1) That the operational and developmental tests conducted in connection with such program after the date of the enactment of this Act were realistic and adequate.
- (2) That the plan and objectives for those tests were clear, well defined, and properly quantifiable.
- (3) That the design of those tests supports a valid statistical analysis of data.
- (4) That the criteria for a no-test were adequately defined in the plan for those tests.
- (5) That the performance of such bomb in those tests met or exceeded the standards established for the tests.
- (6) That the BIGEYE bomb program is otherwise ready to proceed into full-scale production.

FISCAL YEAR 1989 AUTHORIZED ACTIVITIES.—Of amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1989, \$15,000,000 may be obligated or expended for procurement for the BIGEYE program without regard to the limitations contained elsewhere in this section, but only for the purposes of maintaining program continuity, maintaining the subcontractor and procuring piece parts and components. Such funds may be obligated or expended for low-rate initial production or for assembly.

7. MANAGEMENT OF CERTAIN DEFENSE PROCUREMENT PROGRAMS

10 USC 2431
note.

STRETCHOUT IMPACT STATEMENT.—The Secretary of Defense shall submit to Congress, at the same time the budget for any fiscal year is submitted to Congress under section 1105 of title 31, United States Code, a statement of what the effect would be during the fiscal year for which the budget is submitted of the stretchout of a defense acquisition program if either of the following applies with respect to that program:

- 1) The final year of procurement scheduled for the program is more than the time the statement is submitted is more than two years later than the final year of procurement for the program as specified in the most recent annual Selected Acquisition Report for that program.
- 2) The proposed procurement quantity for that fiscal year is less than 90 percent of the procurement quantity proposed for the same fiscal year in the most recent annual Selected Acquisition Report for that program.

CHANGES IN CERTAIN COSTS TO BE INCLUDED.—A statement under subsection (a) with respect to a major defense acquisition program shall contain an estimate of the projected increase in unit cost and the projected increase in total program cost for the system procured under the program compared to the program specified in the most recent annual Selected Acquisition Report for that program.

IDENTIFICATION OF STRETCHED OUT PROGRAMS.—The Secretary shall include in a statement under subsection (a) identification of all defense acquisition programs for which the proposed procurement quantity for that fiscal year is less than 80 percent of the baseline procurement rate for that fiscal year, as defined by section 3(3)(C)(i) of title 10, United States Code, and an explanatory statement for the lower procurement rate for each program.

(d) **LIMITATIONS.**—(1) Subsection (a) shall apply only for major defense acquisition programs for which procurement is proposed at a rate of six or more units per year.

(2) Subsection (a) shall not apply if the total procurement quantity has been increased, compared to the program specified in the most recent annual Selection Acquisition Report for that program, and subsection (a)(2) does not apply.

(e) **REPORT ON ESTABLISHING MAXIMUM PRODUCTION RATES.**—Not later than March 15, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility and effect of establishing maximum production rates by December 1990 for certain major defense acquisition programs. The report shall identify and discuss ten programs, of which seven shall be programs for the procurement of conventional, tactical, or dual-capable systems.

(f) **DEFINITION.**—For purposes of this section, the term “major defense acquisition program” has the meaning given that term in section 2430 of title 10, United States Code.

SEC. 118. MODIFICATIONS IN CHEMICAL DEMILITARIZATION PROGRAM

(a) **EXTENSION OF DEADLINE FOR COMPLETION OF PROGRAM.**—Subsection (b) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1512(b)) is amended—

50 USC 1521.

(1) by striking out “September 30, 1994” in paragraphs (1) and (3)(A) and inserting in lieu thereof “the stockpile elimination deadline”;

(2) in paragraph (3)(B), by striking out “within 30 days” and all that follows in that paragraph and inserting in lieu thereof “not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline.”; and

(3) by adding at the end the following new paragraphs:

“(4) If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.

“(5) For purposes of this section, the term ‘stockpile elimination deadline’ means April 30, 1997.”

(b) **REQUIREMENT FOR SUCCESSFUL COMPLETION OF OPERATIONAL VERIFICATION.**—Such section is further amended by striking out subsection (k) and inserting in lieu thereof the following:

“(k) **OPERATIONAL VERIFICATION.**—(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

“(2) Upon the successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and

Reports.

House of Representatives a report certifying that the prove out is completed.

“(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.”.

SEC. 119. REPORT ON NAVY AIRCRAFT REQUIREMENTS

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, \$5,198,444,000.

For the Navy (including the Marine Corps), \$9,383,162,000.

For the Air Force, \$14,680,825,000.

For the Defense Agencies, \$8,707,727,000, of which—

(1) \$155,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(2) \$123,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. FUNDING FOR ICBM MODERNIZATION PROGRAMS

(a) **PROGRAM FUNDS.**—Of the funds appropriated pursuant to section 201 for the Air Force, the amount of \$890,000,000 shall be available for ICBM modernization programs.

(b) **ALLOCATION.**—Of the amounts specified in subsection (a)—

(1) \$40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) \$250,000,000 shall be available for the small ICBM program; and

(3) \$600,000,000 shall be available for the MX Rail-Garrison program.

(c) **LIMITATION ON OBLIGATION.**—Of the amount specified in subsection (b)(3), the amount obligated before February 15, 1989, may not exceed \$250,000,000.

(d) **PRESIDENTIAL REPORT.**—During the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on—

(1) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(2) the purposes those obligations are intended to accomplish.

SEC. 203. DARPA NUCLEAR MONITORING PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, \$37,600,000 shall be available only to the Defense Advanced Research Projects Agency for the nuclear monitoring program.

SEC. 204. GRANT FOR SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, \$100,000,000 shall be available only to make grants under section 272 of Public Law 100-180.

SEC. 205. AIRSHIP PROGRAM

Of the amounts appropriated pursuant to section 201, the Secretary of Defense may make available an amount not to exceed \$25,000,000 for the Airship Program.

SEC. 206. EXTENDED AIR DEFENSE

Of the amount appropriated pursuant to section 201 for Defense Agencies, \$25,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems. If any such funds are made available to a firm in an allied country, those funds may not be obligated until the Secretary of Defense enters into a cooperative program with that country for that purpose.

SEC. 207. PRODUCT EVALUATION ACTIVITY

Of the amounts appropriated pursuant to section 201, \$17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 842 of this Act.

SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, \$6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 209. OPTOELECTRONICS MATERIALS CENTER

Of the amounts appropriated pursuant to section 201 for Defense Agencies, \$14,500,000 shall be available only for the establishment

an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

ART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

211. TRIDENT II MISSILE PROGRAM

(1) **TRIDENT II MISSILE.**—Of the amount appropriated pursuant to section 201 for the Navy, \$580,889,000 may be obligated only for the Trident II missile program.

(2) **UNDISTRIBUTED REDUCTION.**—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense in fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

212. BALANCED TECHNOLOGY INITIATIVE

(1) **AMOUNTS AUTHORIZED.**—Of the amounts appropriated pursuant to section 201—

(A) \$263,000,000 may be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(B) \$50,000,000 may be obligated only for research and development under the Balanced Technology Initiative and only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(2) **DETERMINATION OF SOURCE OF FUNDS.**—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in section (a)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in section 215(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 that are carried out by the Army, Navy, Air Force, and Defense Agencies, bringing into consideration ongoing technology research and exploitation opportunities.

(3) **PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.**—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (a).

(4) **PROHIBITION ON USE OF FUNDS FOR SDI.**—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(5) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(1) The amount allocated under subsection (a) for each program, project, or activity and the identification of the source of such amount.

(2) Identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities.

(3) For each program, project, or activity for which funds have been allocated under subsection (a) or which is identified under paragraph (2), a five-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving those milestones.

SEC. 213. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER PROGRAMS

(a) **ADVANCED TACTICAL AIRCRAFT, NAVY.**—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft program of the Navy, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) **ADVANCED TACTICAL FIGHTER, AIR FORCE.**—Of the amounts appropriated pursuant to section 201, not more than \$350,000,000 may be obligated or expended for the Advanced Tactical Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the full scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 214. AIR-TO-AIR MISSILE PROJECT OFFICE

(a) **LIMITATION.**—Subject to subsection (b), amounts appropriated pursuant to section 201—

(1) may not be obligated in excess of \$20,000,000 for the Advanced Air-to-Air Missile (AAAM) program; and

(2) may not be obligated in excess of \$10,000,000 for the Advanced Medium-Range Air-to-Air Missile (AMRAAM) program.

(b) **JOINT PROGRAM OFFICE.**—Subsection (a) shall cease to apply upon the establishment by the Secretary of the Navy and the Secretary of the Air Force of a joint program office, to operate under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and the product improved Advanced Medium-Range Air-to-Air Missile.

SEC. 215. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) **FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.**—Of the amounts appropriated pursuant to section 201, not more than \$15,000,000 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report that sets forth—

Reports.

(A) a detailed explanation of proposed Federal expenditures,

(B) a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and

(C) a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

CONFORMING AMENDMENT.—Section 219(b) of Public Law 100-456 is repealed.

101 Stat. 1054.

216. PROHIBITION ON OBLIGATION OF FUNDS FOR CANCELLED ANTISATELLITE WEAPON PROGRAM

PROHIBITION.—Residual fiscal year 1988 ASAT funds may not be obligated for the ASAT program.

RESIDUAL FISCAL YEAR 1988 ASAT FUNDS DEFINED.—For purposes of this section, the term “residual fiscal year 1988 ASAT funds” means funds in the amount of \$16,000,000 which were appropriated to the Department of Defense for fiscal year 1988 for research, development, test, and evaluation for the Air Force which—

(1) were originally made available for the ASAT program; and

(2) which remain available for obligation following cancellation of that program by the Secretary of Defense.

ASAT PROGRAM DEFINED.—For purposes of subsections (a) and (b), the term “ASAT program” means the program of the Air Force to develop an F-15 launched miniature homing vehicle antisatellite weapon.

217. LONG-RANGE CONVENTIONAL CRUISE MISSILE

REPORT.—Not later than December 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

CONTENT OF REPORT.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guid-

ance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

SEC. 218. SEEK SPINNER MISSILE PROGRAM

Funds appropriated or otherwise made available to the Department of Defense pursuant to this Act or any Act enacted after the date of the enactment of this Act may not be obligated or expended for the Seek Spinner Missile program in any configuration.

SEC. 219. DEPRESSED-TRAJECTORY BALLISTIC MISSILES

(a) **ESTABLISHMENT OF DEFINITION.**—Not later than April 1, 1989, the Secretary of Defense shall prescribe a definition of what constitutes a depressed trajectory for a strategic ballistic missile. The definition shall be prescribed in coordination with the Director of Central Intelligence. The Secretary shall prescribe such definition in specific quantitative terms so as to clearly distinguish ballistic missile trajectories which are depressed from other ballistic missile trajectories, including minimum-energy ballistic missile trajectories, so that if the United States and the Soviet Union mutually observe a policy of non-flight testing of depressed-trajectory strategic ballistic missiles, the observance of that policy—

(1) would, to the maximum possible degree, reduce the potential for a short-time-of-flight attack on strategic aircraft or other strategic assets the survivability or effectiveness of which depends on timely receipt of adequate warning of attack, but

(2) would not significantly affect present or planned practices of the United States for the testing of ballistic missiles that are not intended for development of a depressed-trajectory capability.

(b) **REPORT.**—Not later than April 1, 1989, the Secretary of Defense shall submit to Congress a report on depressed-trajectory strategic ballistic missiles (as defined under subsection (a)), which shall be prepared in coordination with the Director of Central Intelligence. The report shall set forth the definition prescribed under subsection (a) and shall include each of the following:

(1) An evaluation of the ability of the United States to monitor flight tests by the Soviet Union of depressed-trajectory strategic ballistic missiles (as defined under subsection (a)) on dedicated or nondedicated test ranges.

(2) A description of any past flight test of a ballistic missile by the United States or by the Soviet Union that would qualify as a test of a depressed-trajectory strategic ballistic missile as defined under subsection (a).

(3) An evaluation of the possibility that the Soviet Union could deploy depressed-trajectory ballistic missiles (as defined under subsection (a)) with sufficient confidence in the reliability of those missiles for use in an attack on the United States without further flight testing.

SEC. 220. REQUIREMENT OF COMPETITION FOR AWARD OF GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES FOR CERTAIN PURPOSES

(a) **REQUIREMENT OF COMPETITION.**—Chapter 139 of title 10, United States Code, is amended by inserting after section 2360 the following new section:

61. Award of grants and contracts to colleges and universities: requirement of competition

() The Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research development, or for the construction of any research or other activity, unless the grant or contract is made or awarded using competitive procedures.

() A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section."

CLERICAL AMENDMENT.—The table of sections at the beginning of each chapter is amended by inserting after the item relating to section 2360 the following new item:

Award of grants and contracts to colleges and universities: requirement of competition."

EFFECTIVE DATE.—The limitation specified in section 2361(a) of title 10, United States Code (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989.

PART C—STRATEGIC DEFENSE INITIATIVE**221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1989**

AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test and evaluation for fiscal year 1989, not more than \$3,738,000,000 may be obligated for the Strategic Defense Initiative.

RESTRICTION ON USE OF FUNDS.—Amounts appropriated to or for the use of the Department of Defense for fiscal year 1989 may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

REPORT BY SECRETARY OF DEFENSE.—Before the adjournment of the second session of the One Hundredth Congress, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the Space-Based Interceptor program of the Strategic Defense Initiative. The report shall include a discussion of the following matters with respect to the SBI program:

- (1) Role of SBI in the Phase One architecture.
- (2) SBI performance in the current system concept.
- (3) SBI cost projections.
- (4) Technology progress and plans.
- (5) Launch requirements.
- (6) Other programmatic details.

222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the

Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) **DEADLINE FOR REPORT.**—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 223. DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) **USE OF FUNDS.**—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of antiballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 1201 of this Act.

(b) **DEFINITION.**—As used in this section, the term “March 1988 SDIO Report” means the report entitled, “Report to Congress on the Strategic Defense Initiative”, dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1988 (Public Law 98-525; 10 U.S.C. 2431 note).

SEC. 224. ACCIDENTAL LAUNCH PROTECTION

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(2) The Soviet Union has deployed approximately 1,400 land-based intercontinental ballistic missiles and approximately 90 sea-based ballistic missiles.

(3) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(4) Proliferation of ballistic missile technology, such as the action of the People's Republic of China in providing ballistic missiles to Saudi Arabia, raises the possibility of future nuclear threats.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

REPORT.—Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the status of planning development of a deployment option for such an accidental launch protection system.

PART D—STRATEGIC PROGRAMS

231. B-1B BOMBER PROGRAM

CONDITION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1989 for improvements or mission-specific equipment or modifications for B-1B aircraft until the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report required by section 243(e)(3) of Public Law 100-180 (101 Stat. 1040). After that report is submitted, funds may be obligated for such purposes only as specifically authorized by law.

Reports.

REPORT ON ENHANCEMENT PROGRAM.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth—

(A) the total cost—

(i) of fixing any discrepancies in the baseline; and

(ii) of the enhancements planned or programmed for the B-1B aircraft; and

(B) a description of each type of such fix or enhancement. Such report shall be submitted in conjunction with the submission of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

EXPLORATION OF ALTERNATIVE ELECTRONIC WARFARE SYSTEMS.—Of the amounts appropriated to the Air Force pursuant to section 201, the sum of \$15,000,000 shall be available only for the purpose of conducting a preliminary evaluation of whether existing electronic warfare systems could be used to replace portions of the AN/APG-68 system of the B-1B aircraft in the event that the current system of the Air Force for recovery of that system fails to achieve the desired results.

232. ADVANCED TECHNOLOGY B-2 BOMBER PROGRAM

PROGRAM MANAGEMENT INITIATIVE.—The Secretary of Defense shall require that the cost, performance, and management initiative for the Advanced Technology B-2 Bomber program established pursuant to section 121 of Public Law 100-180 (101 Stat. 1040) include the creation of a full performance matrix.

GAO COST REVIEW.—(1) The Comptroller General of the United States shall review the costs of the Advanced Technology Bomber program. In reviewing such costs, the Comptroller General shall act independently of the Department of Defense.

(A) The Secretary of Defense shall ensure that the Comptroller General is given direct, full, and timely access to all information and

materials specified in subparagraph (B) in order for the Comptroller General to carry out the cost review required by paragraph (1).

(B) Information and materials referred to in subparagraph (A) are information and materials that are held by, or otherwise available to, the Department of Defense (including the Department of the Air Force) or any contractor for the Advanced Technology Bomber program (including any subcontractor) and that are required by the Secretary of the Air Force for the purpose of performing the required Independent Cost Analysis of the Advanced Technology Bomber program and by the Secretary of Defense for the purpose of performing the Cost Analysis Improvement Group review of that program.

Reports.

(3) The Comptroller General shall submit a report on the program cost review under this subsection to the Armed Services Committees not later than March 1, 1989.

(c) **REPORT ON TOTAL PROGRAM COST.**—The Secretary of Defense shall submit to Congress a report setting forth the total program cost, in constant and in current dollars, of the Advanced Technology B-2 Bomber program. Such report shall be submitted not later than March 1, 1989.

Reports.

(d) **COST MONITORING AND TRACKING.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall conduct an evaluation of the current system for monitoring and tracking costs for the Advanced Technology Bomber program and shall prepare an assessment of that system. Not later than March 1, 1989, the Secretary shall submit to the Armed Services Committees a report setting forth the Secretary's findings, based upon such evaluation and assessment, with respect to that system and any recommendations of the Secretary for improving that system.

(e) **DEFINITION.**—For purposes of this section, the term "Armed Services Committees" means the Committees on Armed Services of the Senate and House of Representatives.

SEC. 233. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

It is the sense of Congress that the authorization of funds in this Act for research and development for both the small intercontinental ballistic missile system (the so-called Midgetman system) and for the rail-garrison MX system does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-garrison basing mode or both.

PART E—OTHER PROGRAMS

SEC. 241. ADVANCED SUBMARINE TECHNOLOGY PROGRAM

(a) **FISCAL YEAR 1989 FUNDING.**—(1) Of the amount appropriated pursuant to section 201 for Defense Agencies, the Secretary of Defense shall make \$65,000,000 available only for the purpose of continuing the Advanced Submarine Technology Program initiated in section 211 of Public Law 100-180 (101 Stat. 1048). Amounts appropriated for such purpose for fiscal year 1989 may be used only for that program.

(2) The Secretary of Defense may use funds appropriated for fiscal year 1989 for such program only—

(A) for submarine hull, mechanical, and electrical technologies; and

(B) for nonnuclear propulsion technologies.
Funds appropriated for fiscal year 1989 for such program may be used for research relating to the effect on submarine design of weapons, sensors, or communications equipment, but may not be used for research on weapons, sensors, or communications equipment.

Funds appropriated for fiscal year 1989 for such program may be used only for exploratory development, advanced technology development, and (as necessary) basic research to support the overall objectives of the program.

PURPOSE OF PROGRAM.—(1) Congress established the Advanced Submarine Technology Program in light of the large amount of activity by the Soviet Union in the area of naval submarines and the continuing advantage of the United States in submarine technology. The purpose of the Advanced Submarine Technology Program is to explore innovative state-of-the-art technologies for advanced submarines and to augment the existing United States submarine technology base in order to establish a sound and increasing submarine technology base.

Congress recognizes that research and development activities with respect to submarine weapons and sensors and high density innovative and advanced nuclear plant systems are necessary and important. However, in light of the purpose of the program to augment the submarine technology base, Congress has in this section provided separate authorization for funding to augment the technology base for submarine hull, mechanical, and electrical systems.

Section 211(a) of Public Law 100-180 is amended—

101 Stat. 1048.

(A) by striking out the second and third sentences of paragraph (1); and

(B) by striking out paragraph (2).

MANAGEMENT OF PROGRAM BY DARPA.—In carrying out the provisions of section 211(a) of Public Law 100-180 that the Advanced Submarine Technology Program be carried out through the Director, Defense Advanced Research Projects Agencies (DARPA), the Secretary of Defense shall provide that the overall management of the execution of such program, including the administration of funds appropriated for the program, be vested in the Director. In managing such program, the Director shall take into consideration the advice of the advisory board established pursuant to congressional direction as part of the fiscal year 1988 budget process.

FIVE-YEAR PLAN.—(1) Not later than October 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Forces of the Senate and House of Representatives a report setting forth a detailed five-year plan for the Advanced Submarine Technology Program. The plan shall update the report submitted pursuant to section 211(b)(1) of Public Law 100-180.

Reports.

The report under paragraph (1) shall include the following:

(A) Identification of each of the technologies to be studied or developed under the program.

(B) With respect to each of the technologies to be developed—

(i) identification of responsibility for the execution of the program and the management of the program; and

(ii) milestones for obligating funds under the program and for major program reviews under the program.

Section 211(b)(2) of Public Law 100-180 is repealed.

(e) **ANNUAL REPORTS.**—Not later than December 1 of each of the years 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Advanced Submarine Technology Program. Each report shall describe—

(1) the activities carried out under the program during the preceding fiscal year;

(2) the obligation of funds for the program during that fiscal year;

(3) activities accomplished under the program during that fiscal year;

(4) ongoing activities under the program; and

(5) major decisions made by the Director of the Defense Advanced Research Projects Agency that were not supported by the advice of the advisory board referred to in subsection (c) and the reasons why the decisions were so made.

Each such report shall also describe how the matters set forth in paragraphs (1) through (4) meet the criteria established in the five-year plan for the program set out in the report under subsection (d).

(f) **PROGRAM DURATION.**—In providing funds under this section for the Advanced Submarine Technology Program for fiscal year 1989, Congress expects that the program will be continued in the five-year defense plan of the Secretary of Defense and that the management of the program will continue to be executed through the Defense Advanced Research Projects Agency for an additional three-to-five years.

(g) **PROHIBITION ON CONTRACTOR MANAGEMENT.**—The Director, Defense Advanced Research Projects Agency, may not carry out the Advanced Submarine Technology Program through obligation of all funding to a single contractor or through the use of management by a single public or private shipyard. The Director, in allocating funds under the program and in light of the purposes of the program, shall seek to obligate funds to a wide variety of recipients.

SEC. 242. PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY

The Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships (EMPRESS II).

SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) **REPORT.**—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces.

(b) **CONTENT OF REPORT.**—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union.

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

244. REPORT ON COMPETITION FOR DEVELOPMENT OF ADVANCED TACTICAL RECONNAISSANCE SYSTEM

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report outlining the plans of the Secretary for establishing, to the maximum extent practicable, competition in the development and production of components for the Advanced Tactical Reconnaissance System.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

301. OPERATION AND MAINTENANCE FUNDING

IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, \$22,103,900,000.
 For the Navy, \$24,852,100,000.
 For the Marine Corps, \$1,817,000,000.
 For the Air Force, \$21,855,600,000.
 For the Defense Agencies, \$7,685,400,000.
 For the Army Reserve, \$794,900,000.
 For the Naval Reserve, \$979,200,000.
 For the Marine Corps Reserve, \$77,500,000.
 For the Air Force Reserve, \$1,033,900,000.
 For the Army National Guard, \$1,801,200,000.
 For the Air National Guard, \$1,971,000,000.
 For the National Board for the Promotion of Rifle Practice, \$4,300,000.
 For the Court of Military Appeals, \$3,500,000.
 For Environmental Restoration, Defense, \$500,000,000.
 For Humanitarian Assistance, \$13,000,000.

GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and
 (2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and

agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, \$291,900,000.

For the Navy Stock Fund, \$184,700,000.

For the Air Force Stock Fund, \$186,900,000.

For the Defense Stock Fund, \$25,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) **PURPOSE.**—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than \$3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) **AUTHORITY TO TRANSFER FUNDS.**—The Secretary of Defense may transfer to the Secretary of State not more than \$3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) **TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.**—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) **MEANS OF TRANSPORTATION TO BE USED.**—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) **REPORTS.**—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report not later than 60 days after the date of the enactment of this Act. The Secretary shall also submit a report to those committees not later than June 1, 1989, and not later than June 1 of each year thereafter, until all funds available under this section have been obligated. Each such report shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(2) The humanitarian relief laws referred to in paragraph (1) are the following:

(A) This section.

(B) Section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

SEC. 304. TRIPLER ARMY MEDICAL CENTER

Hawaii.

The Secretary of the Army shall establish, during fiscal year 1989, a video teleconferencing center at the Tripler Army Medical Center, Hawaii.

SEC. 305. ASSISTANCE TO THE 1990 GOODWILL GAMES

Washington.

(a) **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary of Defense may provide logistical support and personnel services to Federal, State, and local governmental entities in connection with the 1990 Goodwill Games to be held at Seattle, Washington. Except as provided in subsection (b), such support and services shall be provided by the Secretary on a reimbursable basis.

(b) **REIMBURSEMENT WAIVER.**—(1) The Secretary may waive the requirement for reimbursement for logistical support and personnel services provided under this section to ensure the security of persons and property in connection with such games if—

(A) the Attorney General of the United States certifies to the Secretary that there are significant potential threats to the security of persons or property, or both, at such games and that other Federal entities and the State and local entities concerned do not have the capability to deal adequately with such potential threats; and

(B) the Attorney General recommends that the requirement for reimbursement for assistance under this section be waived because—

(i) such assistance is necessary to provide the degree of security that is essential in the national interest; and

(ii) unusual circumstances for such assistance make it impractical for other Federal entities or the State or local entities concerned to reimburse the Secretary for such assistance.

(2) Waivers under paragraph (1) shall be made by the Secretary on a case-by-case basis.

(c) **AUTHORIZATION.**—There is authorized to be appropriated for fiscal year 1989 the amount of \$5,000,000 for the purpose of carrying out this section.

(d) **RESTRICTION ON FUNDS.**—Funds made available to or for the use of the Department of Defense may not be used to provide logistical support or personnel services in connection with the Goodwill Games referred to in subsection (a) unless such funds have been specifically appropriated for such purpose.

(e) **COMPUTATION OF AMOUNTS.**—In computing the amount that has been expended in carrying out the provisions of this section, the Secretary shall include the pay and allowances of members of reserve components of the Armed Forces called or ordered to active

duty (including active duty for training) to provide support for the Goodwill Games referred to in subsection (a), but shall exclude the pay and nontravel related allowances of other members of the Armed Forces serving on active duty.

SEC. 306. INAUGURATION ASSISTANCE

(a) **FURNISHING OF MATERIALS, SUPPLIES, AND SERVICES.**—During fiscal year 1989, the Secretary of Defense may, as the Secretary determines to be appropriate and under such conditions as the Secretary may prescribe, lend materials or supplies and provide materials, supplies, or services of personnel to the Inaugural Committee established under the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721 et seq.) or to the joint committee described in section 9 of that Act.

(b) **ADDITIONAL AUTHORITY.**—The authority provided by subsection (a) is in addition to the authority provided by section 2543 of title 10, United States Code.

SEC. 307. ENHANCEMENT OF CAPABILITY TO COMBAT FRAUD, WASTE, AND ABUSE

In order to enhance the capability of the Department of Defense to combat fraud, waste, and abuse and to assist in restoring public confidence in the defense acquisition process, the Secretary of Defense, not later than September 30, 1989, shall—

(1) increase the number of audit and support personnel assigned within the Office of the Inspector General of the Department of Defense to the Assistant Inspector General for Audit from 550 personnel (as assumed in the President's amended budget request for fiscal year 1989) to not less than 657; and

(2) increase the number of audit and support personnel assigned to the Defense Contract Audit Agency from 6,439 (as assumed in the President's amended budget request for fiscal year 1989) to not less than 7,007.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) **PROHIBITION.**—During fiscal year 1989, the Secretary of the Navy may not take any action with respect to converting or planning the conversion of the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) **ACTIVITIES COVERED.**—An activity referred to in subsection (a) is any of the following:

- (1) Naval Avionics Center, Indianapolis, Indiana.
- (2) Naval Civil Engineering Laboratory, Port Hueneme, California.
- (3) Naval Air Engineering Center, Lakehurst, New Jersey.

SEC. 312. PROHIBITION ON JOINT USE OF DOBBINS AIR FORCE BASE WITH CIVIL AVIATION

The Secretary of the Air Force may not enter into an agreement that would provide for or permit the joint use of Dobbins Air Force Base, Marietta, Georgia, by the Air Force and civil aircraft.

**SEC. 313. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR
RESALE IN MILITARY EXCHANGE STORES**50 USC app.
2410a note.

(a) **PROHIBITION.**—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) **EXCEPTION.**—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

**SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN
COMMAND AIRLIFT**

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.

**SEC. 315. ONE-YEAR EXTENSION OF LIMITATION ON ARMY DEPOT
MAINTENANCE FUNDING**

(a) **ONE-YEAR EXTENSION.**—Section 314 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1074) is amended—

(1) in subsection (a), by striking out “fiscal year 1988” and inserting in lieu thereof “fiscal year 1989”; and

(2) in subsection (b)(1)(C), by striking out “fiscal year 1989” and inserting in lieu thereof “fiscal year 1990”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 1988.

SEC. 316. OPERATION OF SR-71 DEPOT REWORK FACILITY

California.

The Secretary of the Air Force shall ensure that the facility used for depot support and rework for the SR-71 fleet of aircraft at Palmdale, California, shall remain operational through September 30, 1989.

**SEC. 317. MANAGEMENT OF CIVILIAN PERSONNEL DURING FISCAL
YEARS 1989 AND 1990**

(a) **PROHIBITION ON MANAGEMENT BY END-STRENGTH.**—During fiscal years 1989 and 1990, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength or any similar or related methodology, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an “end-strength”) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) **WAIVER OF CIVILIAN PERSONNEL CEILINGS.**—Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1989 and 1990 or with respect to the appropriation of funds for that year.

(c) **SEMIANNUAL REPORTS.**—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives semiannual reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal years 1989 and 1990. Each report shall include—

(1) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal years 1989 and 1990; and

(2) for each appropriation account and for the entire Department—

(A) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each six-month period described in the report; and

(B) the projected number of such personnel to be employed, and amount of funds that will be obligated for such personnel, as of the end of each of fiscal years 1989 and 1990.

SEC. 318. LIMITATION ON OPERATION OF EXISTING POSEIDON CLASS SUBMARINES U.S.S. JAMES MONROE AND U.S.S. HENRY CLAY

Effective as of September 1, 1989, no funds appropriated to the Department of Defense for fiscal year 1989 or a prior year may be obligated or expended—

(1) to overhaul, operate, or deploy the U.S.S. Henry Clay (SSBN 625), except that such funds may be obligated or expended after such date for the operation of such vessel (A) for crew training in port, and (B) for a short underway trial before such vessel proceeds to the inactivating port; or

(2) to overhaul, operate, maintain, or deploy the U.S.S. James Monroe (SSBN 622).

PART C—PERMANENT LAW CHANGES

Contracts.

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: “A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.”.

SEC. 322. ALLOWABLE COSTS WITH RESPECT TO CERTAIN SERVICE CONTRACTS PERFORMED OVERSEAS

(a) **CERTAIN SEVERANCE PAY COSTS NOT ALLOWABLE.**—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount

paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the Secretary of Defense.”

(b) **EFFECTIVE DATE.**—Subparagraph (M) of section 2324(e)(1) of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

10 USC 2324
note.

SEC. 323. AUTHORITY TO CONTINUE SUPPORT OF SCOUTING ACTIVITIES OVERSEAS

(a) **AUTHORITY.**—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2606. Scouting: cooperation and assistance in foreign areas

“(a) Subject to subsection (b), the Secretary concerned may cooperate with and assist qualified scouting organizations in establishing and providing facilities and services for members of the armed forces and their dependents, and civilian employees of the Department of Defense and their dependents, at locations outside the United States.

“(b) Cooperation and assistance under subsection (a) shall be provided under regulations prescribed by the Secretary of Defense and may be provided only if the President determines that such cooperation and assistance is necessary in the interest of the morale, welfare, and recreation of members of the armed forces.

Regulations.

“(c) Personnel of a qualified scouting organization, including officials certified by that organization as representing that organization, who are performing duties in connection with cooperation and assistance provided under subsection (a) may be furnished—

“(1) transportation at the expense of the United States while traveling to and from, and while performing, such duties in the same manner as civilian employees of the United States; and

“(2) available office space (including space for recreational activities for Boy Scouts and Girl Scouts), warehousing, utilities, and a means of communication, without charge.

“(d) Supplies of a qualified scouting organization may be transported at the expense of the United States if the Secretary concerned determines, under regulations prescribed under subsection (b), that the supplies are necessary to the cooperation and assistance provided under this section.

“(e) The Secretary concerned may reimburse a qualified scouting organization for all or part of the pay of an employee of that organization for any period during which the employee was performing services under subsection (a). Any such reimbursement may not be made from appropriated funds and shall be made under regulations prescribed under subsection (b).

“(f) For the purposes of this section, employees of a qualified scouting organization performing services under subsection (a) may not be considered to be employees of the United States.

“(g) In this section, the term ‘qualified scouting organization’ means the Girl Scouts of the United States of America and the Boy Scouts of America.”

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2606. Scouting: cooperation and assistance in foreign areas.”

SEC. 324. TRANSFERS AND EXCHANGES OF CERTAIN DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED AND OBSOLETE COMBAT MATERIEL

(a) **AUTHORITY.**—Section 2572 of title 10, United States Code, is amended to read as follows:

“§ 2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange

“(a) The Secretary concerned may lend or give items described in subsection (c) that are not needed by the military department concerned (or by the Coast Guard, in the case of the Secretary of Transportation), to any of the following:

- “(1) A municipal corporation.
- “(2) A soldiers’ monument association.
- “(3) A museum, historical society, or historical institution of a State or a foreign nation.
- “(4) An incorporated museum that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.
- “(5) A post of the Veterans of Foreign Wars of the United States or of the American Legion or a unit of any other recognized war veterans’ association.
- “(6) A local or national unit of any war veterans’ association of a foreign nation which is recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).
- “(7) A post of the Sons of Veterans Reserve.

“(b)(1) Subject to paragraph (2), the Secretary concerned may exchange items described in subsection (c) that are not needed by the armed forces for similar items held by any individual, organization, institution, agency, or nation.

“(2) The Secretary concerned may not make an exchange under paragraph (1) unless the monetary value of property transferred to the United States under the exchange is not less than the value of the property transferred by the United States. The Secretary concerned may waive the limitation in the preceding sentence in any case in which the Secretary determines that the item to be received by the United States in the exchange will significantly enhance the historical collection of the property administered by the Secretary.

“(c) This section applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

“(d)(1) A loan or gift made under this section shall be subject to regulations prescribed by the Secretary concerned and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486).

“(2) The United States may not incur any expense in connection with a loan or gift under subsection (a).”.

(b) **CLERICAL AMENDMENT.**—The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

“2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange.”.

C. 325. QUALIFICATIONS FOR HEAD OF AUDITING FUNCTION IN MILITARY DEPARTMENTS

a) DEPARTMENT OF THE ARMY.—Section 3014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position defined in section 3132(a)(8) of title 5.”.

b) DEPARTMENT OF THE NAVY.—Section 5014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

“(B) The position of regional director within such office or entity, and any other position within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.”.

c) DEPARTMENT OF THE AIR FORCE.—Section 8014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position defined in section 3132(a)(8) of title 5.”.

d) EFFECTIVE DATES.—(1) The requirements of sections 3014(c)(5), 5014(c)(5)(A), and 8014(c)(5) of title 10, United States Code (as added by subsections (a), (b), and (c), respectively), shall apply with respect to any person appointed on or after the date of the enactment of this Act as the head of the office or other entity designated for conducting the auditing function in a military department.

(2) Subparagraph (B) of section 5014(c)(5) of title 10, United States Code (as added by subsection (b)), shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.

10 USC 5014
note.

C. 326. PROHIBITION ON CERTAIN DEPOT MAINTENANCE WORKLOAD COMPETITIONS

a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

2466. Prohibition on certain depot maintenance workload competitions

“The Secretary of Defense may not require the Secretary of the Army or the Secretary of the Air Force, in selecting an entity to perform any depot maintenance workload, to carry out a competition for such selection—

“(1) between or among maintenance activities of the Department of the Army and the Department of the Air Force; or

“(2) between a maintenance activity of either such department and a private contractor.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2466. Prohibition on certain depot maintenance workload competitions.”.

SEC. 327. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) **REPORT REQUIREMENT.**—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the 1990-1991 biennial budget for the Department of Defense.

(b) **MATTERS TO BE INCLUDED IN REPORT.**—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1985 to 1989 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) **PRIORITY FOR IMPROVEMENTS.**—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) **REPORT DEADLINE.**—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than February 15, 1989.

328. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

PART D—CONTRACTING OUT**331. REQUIREMENTS FOR CERTAIN CIRCULAR A-76 PROCEDURES**

IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 326, is further amended by adding at the end the following new section:

467. Cost comparisons: requirements with respect to retirement costs and consultation with employees

a) REQUIREMENT TO INCLUDE RETIREMENT COSTS.—(1) In any comparison conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) of the cost of performing commercial activities by Department of Defense personnel and the cost of performing such activities by contractor personnel, the Secretary of Defense shall include retirement system costs (as described in paragraphs (2) and (3)) of both the Department of Defense and the contractor.

(2) The retirement system costs of the Department of Defense shall include (to the extent applicable) the following:

“(A) The cost of the Federal Employees’ Retirement System, valued by using the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code).

“(B) The cost of the Civil Service Retirement System under subchapter III of chapter 83 of such title 5.

“(C) The cost of the thrift savings plan under subchapter III of chapter 84 of such title 5.

“(D) The cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.

(3) The retirement system costs of the contractor shall include the cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986, the cost of thrift or other retirement savings plans, and other relevant retirement costs.

b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of the Department—

“(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

“(B) may consult with such employees on other matters relating to that determination.

“(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

“(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

Regulations.

“(3) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees.”.

SEC. 332. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) AUTHORITY TO CONTRACT.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

PART E—DEFENSE SUPPLIES SECURITY AND CONTROL

10 USC 2891
note.

SEC. 341. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

(a) DEFENSE INVENTORY SECURITY AND CONTROL ENHANCEMENT STUDY.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

Reports.

(2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report,

any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

(b) ANALYSIS OF SALES OF SURPLUS MUNITIONS.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public and to licensed dealers; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice.

Reports.

(c) SUPPLY TRACEABILITY ENHANCEMENT.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method.

Reports.

(d) SUPPLY SYSTEM MODERNIZATION PLAN.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

C. 342. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) SECURITY AND CONTROL OF SUPPLIES: REPORTS, FUNDING, PROCEDURES.—(1) Part IV of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

“CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

ec.

391. Security and control of supplies: annual report.

392. Miscellaneous procedures.

2891. Security and control of supplies: annual report

“(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report for each of fiscal years 1989, 1990, and 1991 on security and control of Department of Defense supplies. Each such report shall be submitted not later than four months after the end of the fiscal year in which the report is submitted.

“(b) Each report shall include the following:

“(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

“(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

“(3) A discussion of—

“(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

“(B) any proposals for expeditious application of any new technology resulting from such projects; and

“(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

“(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

“(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

“(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

“(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

“(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

“§ 2892. Miscellaneous procedures

“(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

“(b) The Secretary shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

“(c) The Secretary shall ensure—

“(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

“(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reasons.”.

The tables of chapters at the beginning of such part and such title are each amended by adding at the end the following new

table:

Security and Control of Supplies..... 2891”.

REPORT EXCEPTION.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to fiscal years 1983 through 1988, described in subsection (b)(4) of such section, for which the Secretary determines that there are adequate records.

10 USC 2891
note.

343. INVENTORY INVESTIGATIONS

UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) in the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security and incidents involving the loss of Department of Defense supplies (including munitions).

10 USC 2891
note.

344. REPORTS TO THE SECRETARY OF THE TREASURY OF LOSSES OF MUNITIONS

IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury

IN GENERAL.—The Secretary of Defense shall report the theft or loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 72 hours, if possible, after the discovery of such theft or loss.

EXCLUSION FOR CERTAIN ITEMS.—The Secretary of Defense shall exclude from the reporting requirement under subsection (a) any item referred to in that subsection if—

“(1) the Secretary determines that the item represents a low risk of danger to the public and would be of minimal utility to any person who may illegally receive such item; and

“(2) the exclusion of such item is specified as being excluded from the reporting requirement in a memorandum of agreement between the Secretary of Defense and the Secretary of the Treasury.

DEFINITIONS.—In this section:

“(1) The term ‘explosive material’ means explosives, blasting agents, and detonators.

“(2) The terms ‘destructive device’ and ‘ammunition’ have the meanings given those terms by paragraphs (4) and (17), respectively, of section 921 of title 18.”.

(b) CLERICAL AMENDMENTS.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

“CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY”

and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

“2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury.”.

(2) The tables of chapters at the beginning of part A, and at the beginning of part IV of part A, of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

“161. Property Records and Report of Theft or Loss of Certain Property..... 2721”.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

10 USC 2722
note.

PART F—STUDIES AND REPORTS

SEC. 351. STUDY OF DEPARTMENT OF DEFENSE SAFETY STANDARDS FOR TRANSPORTATION OF HAZARDOUS MATERIALS

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the adequacy of Department of Defense safety standards for the transportation of hazardous materials.

SEC. 352. REPORT ON THE USE OF DEGRADABLE PLASTIC ITEMS BY DEPARTMENT OF DEFENSE

(a) STUDY.—The Secretary of Defense shall conduct a study of the use of disposable plastic items by the Department of Defense during fiscal year 1989 in order to identify the types of such items used by the Department of Defense and to determine the approximate quantity of those items used annually by the Department of Defense and to identify which of those items are degradable and which are not degradable.

(b) REPORT.—Not later than March 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall include—

(1) recommendations of the Secretary concerning the feasibility of substituting degradable plastic items for nondegradable plastic items identified in the study that are needed by the Department of Defense; and

(2) a description of—

(A) the availability of degradable plastic items that are suitable substitutes for the nondegradable plastic items identified; and

(B) any additional cost to the United States that would result from conversion to the use of such degradable plastic items over the cost of continued use of the nondegradable plastic items.

SEC. 353. NAVY PARTICIPATION IN FEASIBILITY STUDY OF SUNSET HARBOR PROJECT, CALIFORNIA

(a) **REQUIRED FUNDING.**—The Secretary of the Navy shall obligate not less than \$100,000 as the contribution by the Department of the Navy to the feasibility study by the Army Corps of Engineers of the Sunset Harbor Project, California, which was authorized by Public Law 99-662.

(b) **SOURCE OF FUNDS.**—For the purpose described in subsection (a), the Secretary of the Navy may use operation and maintenance funds appropriated to or for the use of the Department of the Navy for fiscal year 1989.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) The Army, 771,800, of which not more than 106,927 may be officers.

(2) The Navy, 593,200, of which not more than 72,610 may be officers.

(3) The Marine Corps, 197,200, of which not more than 20,120 may be officers.

(4) The Air Force, 575,100, of which not more than 105,038 may be officers.

SEC. 402. REPEAL OF MANDATORY REDUCTIONS IN STRENGTH OF ACTIVE DUTY OFFICER CORPS

(a) **PUBLIC LAW 99-661.**—Section 403 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3859) is amended by striking out the last line (relating to September 30, 1989) in the table in subsection (a).

10 USC 521 note.

(b) **PUBLIC LAW 100-180.**—Section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1081) is repealed.

10 USC 521 note.

(c) **LIMITATIONS FOR FISCAL YEAR 1990.**—(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed—

10 USC 521 note.

(A) in the case of the Army, 106,427; and

(B) in the case of the Air Force, 102,438.

(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 shall be excluded in counting officers under this subsection.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS

10 USC 523 note.

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and

other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1989 is hereby reduced by 125, and the number of such officers that (but for this section) would be so authorized to be serving on active duty during fiscal year 1990 is hereby reduced by 250.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

(a) **AUTHORIZATION.**—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows:

- (1) The Army National Guard of the United States, 457,300.
- (2) The Army Reserve, 320,600.
- (3) The Naval Reserve, 152,600.
- (4) The Marine Corps Reserve, 43,600.
- (5) The Air National Guard of the United States, 115,200.
- (6) The Air Force Reserve, 83,600.
- (7) The Coast Guard Reserve, 13,000.

10 USC 261 note.

(b) **CONFORMING AMENDMENTS.**—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1082) is amended by striking out “or subsection (b)” and inserting in lieu thereof “or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989”.

(2) Section 411(d) of such Act is amended by striking out “subsections (a) and (b)” and inserting in lieu thereof “subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989”.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 25,725.
- (2) The Army Reserve, 13,329.
- (3) The Naval Reserve, 21,991.
- (4) The Marine Corps Reserve, 1,945.
- (5) The Air National Guard of the United States, 7,948.
- (6) The Air Force Reserve, 657.

SEC. 413. CLARIFICATION OF APPLICABILITY OF PRIOR AMENDMENTS RELATING TO NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

The provisions of section 5 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1020) may not be construed as applying to the amendments made by subsections (a)(2) and (b)(2) of section 413 of such Act.

PART C—MILITARY TRAINING

421. AUTHORIZATION OF TRAINING STUDENT LOADS

IN GENERAL.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

- (1) The Army, 80,281.
- (2) The Navy, 65,925.
- (3) The Marine Corps, 18,064.
- (4) The Air Force, 36,857.
- (5) The Army National Guard of the United States, 19,561.
- (6) The Army Reserve, 17,190.
- (7) The Naval Reserve, 3,136.
- (8) The Marine Corps Reserve, 3,459.
- (9) The Air National Guard of the United States, 2,868.
- (10) The Air Force Reserve, 1,827.

ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prepare the manner in which such adjustment shall be apportioned.

PART D—AUTHORIZATION OF APPROPRIATIONS

431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1989

There is hereby authorized to be appropriated to the Secretary of Defense for military personnel for fiscal year 1989 a total of \$461,000,000. The authorization in the preceding sentence supercedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1989.

TITLE V—MILITARY PERSONNEL POLICY

PART A—OFFICER PERSONNEL POLICY

501. SELECTION BOARDS

INFORMATION FURNISHED TO BOARDS.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

“(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;”;

(2) by adding at the end the following new subsection:

(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented if the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 617(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the report acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guide-

Reports.

lines as part of a written explanation to the board as provided in that section.”.

10 USC 616.

(b) **RECOMMENDATIONS FOR PROMOTION.**—Section 616(a) of such title is amended by inserting “(as noted in the guidelines or information furnished the board under section 615(a) of this title)” after “particular skills”.

(c) **REPORTS OF SELECTION BOARD.**—Section 617(a)(2) of such title is amended by inserting “(as noted in the guidelines or information furnished the board under section 615(a) of this title)” after “concerned”.

(d) **ACTION ON REPORTS.**—(1) Subsection (a) of section 618 of such title is amended to read as follows:

“(a)(1) Upon receipt of the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guideline furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (b) or (c), as appropriate.

“(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guideline furnished the board under section 615(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.”.

(2) Subsection (c)(1) of such section is amended—

(A) by striking out “, modification,”; and

(B) by adding at the end the following: “If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.”.

10 USC 615 note.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that effective date.

SEC. 502. REMOVAL FROM PROMOTION LIST

(a) **AUTHORITY TO REMOVE.**—The first sentence of section 5905(a) of title 10, United States Code, is amended to read as follows: “The President may remove the name of any reserve officer from the promotion list established under this chapter.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to removal actions taken by the President on or after the date of the enactment of this Act.

President of U.S.
10 USC 5905
note.

**EC. 503. SELECTIVE EARLY RETIREMENT FOR CERTAIN PRE-DOPMA
NAVY AND MARINE CORPS OFFICERS**

(a) **CONFORMANCE TO ARMY AND AIR FORCE PROVISIONS.**—Subsection (a)(2) of section 613 of the Defense Officer Personnel Management Act (Public Law 96-513; 10 U.S.C. 611 note) is amended—

- (1) by striking out “or” at the end of clause (B);
- (2) by striking out the period at the end of clause (C) and inserting in lieu thereof “; or”; and
- (3) by adding at the end the following new clause:
“(D) selected for early retirement under section 638 of title 10, United States Code.”.

(b) **TECHNICAL AMENDMENTS.**—Such section is further amended—

- (1) by striking out “on the effective date of this Act” in the matter in subsection (a)(1) preceding clause (A) and inserting in lieu thereof “on September 15, 1981”; and
- (2) by striking out “on the day before the effective date of this Act” each place it appears in such section and inserting in lieu thereof “on September 14, 1981”.

**EC. 504. TECHNICAL REVISION OF SECTION 638 OF TITLE 10, UNITED
STATES CODE**

Subsection (a) of section 638 of title 10, United States Code, is amended to read as follows:

“(a)(1) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may be considered for selective early retirement by a selection board convened under section 611(b) of this title if the officer is described in any of subparagraphs (A) through (D) as follows:

“(A) An officer holding the regular grade of lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion.

“(B) An officer holding the regular grade of colonel or, in the case of an officer of the Navy, captain who has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

“(C) An officer holding the regular grade of brigadier general or rear admiral (lower half) who has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

“(D) An officer holding the regular grade of major general or rear admiral who has served at least three and one-half years of active duty in that grade.

“(2) The Secretary of the military department concerned shall specify the number of officers described in paragraphs (1)(A) and (1)(B) which a selection board convened under section 611(b) of this title may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.”.

PART B—JOINT OFFICER PERSONNEL POLICY

SEC. 511. WAIVER AUTHORITY WITH RESPECT TO SELECTION OF OFFICERS FOR THE JOINT SPECIALTY

The last sentence of section 661(c)(3)(D) of title 10, United States Code, is amended—

- (1) by inserting “for officers in the same pay grade” after “under this paragraph”;
- (2) by striking out “5 percent” and inserting in lieu thereof “10 percent”; and
- (3) by inserting “in that pay grade” after “number of officers”.

SEC. 512. JOINT SPECIALTY OFFICERS IN CRITICAL JOINT DUTY ASSIGNMENTS

(a) FLEXIBILITY FOR CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d)(2) of title 10, United States Code, is amended—

- (1) by inserting “(A)” after “(2)”;
- (2) by striking out the last sentence; and
- (3) by adding at the end the following:

“(B) Until January 1, 1994, at least 80 percent of the positions designated by the Secretary under subparagraph (A) shall be held at all times by officers who have the joint specialty. On and after January 1, 1994, each position so designated may (subject to subparagraph (C)) be held only by an officer who has the joint specialty.

“(C) The Secretary of Defense may, on a case-by-case basis, waive the requirement in the second sentence of subparagraph (B) with respect to a particular assignment of an officer to a position designated as a critical joint duty assignment position. The authority of the Secretary to make such a waiver may be delegated only to the Chairman of the Joint Chiefs of Staff.

“(D) During the period beginning on October 1, 1992, and ending on January 1, 1993, the Secretary of Defense shall submit to Congress a report on the operation, to the date of the report, of the first sentence of subparagraph (B) and on the Secretary's projection for the use of the waiver authority provided under subparagraph (C), including the Secretary's estimate of the average annual number of waivers to be provided under subparagraph (C).”

(b) REVISION OF ANNUAL REPORT.—Section 667 of such title is amended—

- (1) by redesignating paragraph (16) as paragraph (17); and
- (2) inserting after paragraph (15) the following new paragraph:

“(16) During the period of the applicability of the first sentence of subparagraph (B) of section 661(d)(2) of this title, information on critical positions not filled by officers with the joint specialty, including—

“(A) a listing by organization of the joint duty assignment positions which were not filled by officers with the joint specialty;

“(B) an explanation of the reasons such positions were not filled by officers with the joint specialty, described by the categories of such reasons; and

“(C) the percentage of critical joint duty assignment positions held by officers who have the joint specialty.”

SEC. 513. PROMOTION POLICY OBJECTIVES FOR OFFICERS WITH THE JOINT SPECIALTY

Section 662(a) of title 10, United States Code, is amended by inserting "to the next higher grade" in paragraphs (1) and (3) after "promoted".

SEC. 514. LENGTH OF JOINT DUTY ASSIGNMENTS

Section 664 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "three years" in paragraph (1) and inserting in lieu thereof "two years"; and

(B) by striking out "three and one-half years" in paragraph (2) and inserting in lieu thereof "three years".

(2) Subsection (c)(1) is amended—

(A) by striking out "has been" and inserting in lieu thereof "is"; and

(B) by striking out "before such assignment begins".

(3) Subsection (d)(2) is amended by inserting "which is less than the applicable standard prescribed in subsection (a)" after "Hawaii".

(4) Subsection (f) is amended—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) a joint duty assignment outside the United States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length (except that not more than 6 percent of all joint duty assignments may be considered to be under this paragraph at any time); or

Alaska.
Hawaii.

"(5) a joint duty assignment with respect to which the Secretary of Defense has granted a waiver under subsection (b), but only in a case in which the Secretary determines that the service completed by that officer in that duty assignment shall be considered to be a full tour of duty in a joint duty assignment."

(5) Subsection (g)(3) is amended by striking out "shall be excluded—" and all that follows in that subsection and inserting in lieu thereof "shall be excluded if the officer served less than 10 months in that assignment."

(6) Such section is further amended by adding at the end the following new subsection:

"(h) **CONSTRUCTIVE CREDIT.**—(1) The Secretary of Defense may accord constructive credit in the case of an officer (other than a general or flag officer) who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (f)(1), (f)(2), (f)(4), or (g)(2). The amount of constructive service that may be credited to such officer shall be the amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days.

"(2) For the purpose of computing under subsection (e) the average length of joint duty assignments during a fiscal year, the amount of any constructive service credited under this subsection with respect

to a joint duty assignment to be counted in that computation shall be excluded.

“(3) This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.”.

SEC. 515. ADDITIONAL TRANSITION PROVISIONS FOR IMPLEMENTATION OF PREREQUISITE FOR PROMOTION TO INITIAL FLAG AND GENERAL OFFICER GRADE

(a) **NAVY NUCLEAR PROPULSION OFFICERS.**—(1) Section 619(e) of title 10, United States Code, is amended—

(A) by striking out “January 1, 1992” in the second sentence of paragraph (1) and inserting in lieu thereof “January 1, 1994”; and

(B) by adding at the end the following new paragraph:

“(5) Not later than March 1 of each year from 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation during the preceding calendar year of the transition plan developed by the Secretary pursuant to section 1305(b) of Public Law 100-180 (101 Stat. 1173) with respect to service by qualified nuclear propulsion officers in joint duty assignments.”.

(2) Section 1305(b) of Public Law 100-180 is amended by striking out “January 1, 1992” each place it appears and inserting in lieu thereof “January 1, 1994”.

(3) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall revise the transition plan developed pursuant to section 1305(b) of Public Law 100-180 to take account of the amendments made by paragraphs (1) and (2). The Secretary shall include with the first report of the Secretary under section 619(e)(5) of title 10, United States Code, as added by paragraph (1)(B), a report on the actions of the Secretary in revising such transition plan.

(b) **WAIVER AUTHORITY.**—(1) Paragraph (2) of section 619(e) of title 10, United States Code, is amended—

(A) by striking out “and” at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following:

“(D) in the case of an officer who served in a joint duty assignment that began before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; and

“(E) until January 1, 1994, in the case of an officer who—

“(i) served in an assignment (other than a joint duty assignment) that began before October 1, 1986, and that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

“(ii) served in a joint duty assignment for not less than two years during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half).”.

Reports.

10 USC 619 note.

10 USC 619 note.

Reports.

(2) Paragraph (3)(C) of such section is amended by striking out paragraph (2)(B), (2)(C), or (2)(D)” and inserting in lieu thereof paragraph (2) (other than under subparagraph (A) of that paragraph)”.

CC. 516. EXTENSION OF TRANSITION TO JOINT DUTY ASSIGNMENT STAFFING REQUIREMENTS

(a) GENERAL EXTENSION.—Subsection (a) of section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1033) is amended to read as follows:

10 USC 661 note.

“(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code, shall be implemented as rapidly as possible and except as provided under paragraph (2)) not later than October 1, 1989.

“(2) The first sentence of section 661(d)(2)(B) of such title shall apply with respect to positions designated under the first sentence of section 661(d)(2)(A) of that title as critical joint duty assignment positions which become vacant after January 1, 1989.”.

(b) TRANSITION.—Subsection (b)(1)(B) of such section is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

“(ii) waive the requirement for the length of a joint duty assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

“(iii) consider as a joint duty assignment any tour of duty begun by an officer before October 1, 1986, that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.”.

(c) DEADLINE FOR INITIAL SELECTION OF OFFICERS FOR THE JOINT SPECIALTY.—Subsection (b)(3) of such section is amended by striking out “two years after the date of the enactment of this Act” and inserting in lieu thereof “on October 1, 1989”.

CC. 517. COUNTING OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTY INVOLVING COMBAT OPERATIONS FOR PURPOSES OF JOINT DUTY ASSIGNMENT STAFFING AND TOUR LENGTHS

(a) STAFFING.—Section 661(d)(4) of title 10, United States Code, is amended by striking out “one-third” and inserting in lieu thereof “25 percent”.

(b) TOUR LENGTHS.—Section 664(e)(2) of such title is amended by striking out “10 percent” and inserting in lieu thereof “12½ percent”.

CC. 518. SERVICE BY CAPTAINS AND NAVY LIEUTENANTS IN JOINT DUTY ASSIGNMENT TO BE COUNTED FOR ALL OFFICER PERSONNEL LAWS CONCERNING SUCH SERVICE

Section 661 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f) **TREATMENT OF CERTAIN SERVICE.**—Any service by an officer in the grade of captain or, in the case of the Navy, lieutenant in a joint duty assignment shall be considered to be service in a joint duty assignment for purposes of all laws (including section 619(e)(1) of this title) establishing a requirement or condition with respect to an officer’s service in a joint duty assignment.”.

SEC. 519. TECHNICAL AMENDMENTS

(a) **AMENDMENTS RELATING TO JOINT DUTY ASSIGNMENTS.**—(1) Section 154(b)(1)(B) of title 10, United States Code, is amended by striking out “served in at least one joint duty assignment (as defined under section 668(b) of this title)” and inserting in lieu thereof “completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)”.

(2) Section 164(a)(1)(B) of such title is amended by striking out “served in at least one joint duty assignment (as defined under section 668(b) of this title)” and inserting in lieu thereof “completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)”.

(3) Sections 3033(a)(2)(B), 5033(a)(2)(B), 5043(a)(2)(B), and 8033(a)(2)(B) of such title are amended by striking out “joint duty assignment” and inserting in lieu thereof “full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)”.

(b) **CORRECTION OF ERRONEOUS SUBSECTION DESIGNATION.**—Section 668 of such title is amended by redesignating subsection (f) as subsection (c).

PART C—MISCELLANEOUS

SEC. 521. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

(a) **REVISION OF MANDATORY TESTING PROGRAM.**—(1) Section 978 of title 10, United States Code, is amended to read as follows:

“§ 978. Drug and alcohol abuse and dependency: testing of new entrants

“(a)(1) Except as provided in paragraph (2), the Secretary concerned shall require each member of the armed forces under the Secretary’s jurisdiction, within 72 hours after the member’s initial entry on active duty after enlistment or appointment, to—

“(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

“(B) be evaluated for drug and alcohol dependency.

“(2) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) during the physical examination given the applicant before such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers’ Training Corps program to undergo such testing and evaluation during the precommissioning physical examination given such person.

“(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not be retained in the armed forces, and any original appointment of such person as an officer shall be terminated, unless that person consents to such testing and evaluation.

“(c)(1) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(1)(B), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

“(2) A person whose enlistment or appointment is voided under paragraph (1) shall be referred to a civilian treatment facility.

“(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces.

Regulations.

“(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).”

(2) The item relating to that section in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

“978. Drug and alcohol abuse and dependency: testing of new entrants.”

(b) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 60 days after the date of the enactment of this Act.

10 USC 978 note.

(c) **EFFECTIVE DATE.**—The testing and evaluation program prescribed by that section shall be implemented not later than October 1, 1989.

10 USC 978 note.

(d) **CONFORMING AMENDMENT.**—Section 513(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1091) is repealed.

10 USC 978 note.

SEC. 522. REQUIREMENT TO ACCEPT PERSONS ENLISTING IN THE AIR FORCE ON GENDER-FREE BASIS

(a) **REQUIREMENT.**—(1) Chapter 833 of title 10, United States Code, is amended by inserting after section 8251 the following new section:

“§ 8252. Regular Air Force: gender-free basis for acceptance of original enlistments

“(a) Except as provided in subsection (b), in accepting persons for original enlistment in the Regular Air Force, the Secretary of the Air Force may not—

“(1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to gender for skill categories or jobs; or

“(2) in any other way base the acceptance of a person for such an enlistment on gender.

“(b) Subsection (a) shall not apply with respect to an enlistment specified as being for training leading to designation in a skill category involving duty assignments to which, under section 8549 of this title, female members of the Air Force may not be assigned.”

Women.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8251 the following new item:

“8252. Regular Air Force: gender-free basis for acceptance of original enlistments.”

(b) **IMPLEMENTATION.**—The Secretary of the Air Force shall develop a methodology for implementing section 8252 of title 10, United States Code, as added by subsection (a), not later than October 1, 1989.

10 USC 8252 note.

10 USC 8252
note.

(c) **EFFECTIVE DATE.**—Such section shall apply with respect to persons accepted for original enlistment in the Regular Air Force after September 30, 1989.

(d) **REPEAL OF FY 89 REQUIREMENT FOR SPECIFIED PERCENTAGE OF AIR FORCE ENLISTEES TO BE WOMEN.**—Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is repealed.

32 USC 709 note.

SEC. 523. MILITARY EDUCATION FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS

(a) **PHASE-OUT OF PROGRAM REQUIRING OUT-OF-STATE TRAINING.**—A civilian technician of the Army National Guard whose military occupational specialty has been approved by the Secretary of the Army in accordance with subsection (b) for training under the Reserve Component Noncommissioned Officers Education Program by an appropriate National Guard school (as defined in subsection (f)) shall, if such technician is not already qualified in that military occupational specialty, receive military training in that military occupational specialty through that school rather than through the Military Education Program.

(b) **APPROVAL OF STATE COURSES.**—(1) Each National Guard school which receives from the Department of the Army a training program for National Guard training for a military occupational specialty as part of the Reserve Component Noncommissioned Officers Education Program shall implement that training program by the end of the 45-day period beginning on the receipt of such program by the school or as soon thereafter as feasible. The Secretary of the Army shall, not later than 45 days after any such school notifies the Secretary that it has implemented such a training program, determine whether or not such school has properly implemented such program. Upon the approval by the Secretary of the implementation of such program by such school, subsection (a) shall apply with respect to military education of civilian technicians of the Army National Guard of that State in the applicable military occupational specialty.

(2) In the case of a National Guard school for which a program has not been approved under paragraph (1) with respect to a military occupational specialty, the Secretary of the Army may, subject to subsection (d), require a civilian technician of the Army National Guard in that State with that military occupational specialty to receive training through the Military Education Program.

(c) **SPECIAL RULE FOR LEADERSHIP TRAINING.**—A civilian technician of the Army National Guard who is required by the National Guard Bureau to receive leadership training through courses known as Primary Leadership Development courses shall receive such training through the appropriate State National Guard school.

(d) **TRANSITION.**—In the case of a civilian technician of the Army National Guard for whose military occupational specialty there is not, as of the date of the enactment of this Act, a program of training approved under subsection (b) for an appropriate National Guard school, the technician shall, at his request, be given the Skill Qualification Test appropriate for his military occupational specialty and skill level. If the technician passes the test and, if necessary for his military occupational specialty, successfully completes the Army National Guard Battle Skills Course for the appropriate grade, the Secretary of the Army may not require the technician to receive training through the existing Military

Education Program and may not reduce the technician in military grade, or deny the technician a military promotion, by reason of failure to receive training through the Military Education Program.

(e) **REPORT.**—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of the Reserve Component Noncommissioned Officers Education Program. The report shall discuss the implementation of such program at each State National Guard school and shall explain, in any case in which the implementation of a training program has not been approved under subsection (b), the reasons for the withholding of such approval. Each report shall be submitted not later than December 31, 1988.

(f) **DEFINITIONS.**—For purposes of this section:

(1) The term “National Guard school”, with respect to a civilian technician, means a National Guard school of that technician’s State, or (2) a regional National Guard school designated by the Secretary of the Army for the region including that technician’s State.

(2) The term “State” includes the District of Columbia and any commonwealth, territory, or possession of the United States.

C. 524. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113) is amended—

- (1) by striking out “hiring” the first place it appears;
- (2) by inserting “civilian” before “position” the first place it appears; and
- (3) by striking out “above Grade GS-1 (or its equivalent)”.

C. 525. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

- (1) in subsection (a)(2), by striking out “90 days” and inserting in lieu thereof “30 days”;
- (2) by redesignating subsection (b) as subsection (c) and in paragraph (3)(A) of that subsection striking out “both in total personnel and” and inserting in lieu thereof “in total personnel or in”; and
- (3) by inserting after subsection (a) the following new subsection (b):

“(b) **EXCEPTIONS.**—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

“(2) The 30-day period specified in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted by the Secretary of Defense under subsection (a)(2) with respect to that program indicates that an increase in military or civilian personnel end strengths described in subsection (c)(3)(B) will be required.”.

TITLE VI—COMPENSATION AND OTHER PERSONNEL
BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

37 USC 1009
note.

(a) **WAIVER OF SECTION 1009 ADJUSTMENT.**—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

Effective date.

(b) **INCREASE IN BASIC PAY AND BAS.**—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

Effective date.
37 USC 403 note.

(c) **INCREASE IN BAQ.**—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

Effective date.

(d) **INCREASE IN CADET AND MIDSHIPMAN PAY.**—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out “\$504.30” and inserting in lieu thereof “\$525”.

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) **ALLOWANCE.**—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out “within such weight allowances prescribed by the Secretaries concerned” in subparagraph (A) and inserting in lieu thereof “within the weight allowances listed in subparagraph (C)”; and

Regulations.

(2) by adding at the end the following new subparagraph:

“(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

“Pay Grade	Without Depend- ents	With Depend- ents
O-10 to O-6.....	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000

"Pay Grade	Without Dependents	With Dependents
3.....	13,000	14,500
2.....	12,500	13,500
1.....	10,000	12,000
4.....	14,000	17,000
3.....	13,000	14,500
2.....	12,500	13,500
1.....	10,000	12,000
2.....	12,000	14,500
3.....	11,000	13,500
7.....	10,500	12,500
5.....	8,000	11,000
5.....	7,000	9,000
4 ¹	7,000	8,000
4 ²	3,500	7,000
3.....	2,000	5,000
2.....	1,500	5,000
1.....	1,500	5,000

Member with more than two years of service computed under section 205 of this title.

Member with less than two years of service computed under section 205 of this title¹.

(b) EFFECTIVE DATE.—The weight allowances in section 406(b)(1)(C) title 37, United States Code (as added by subsection (a)), shall apply with respect to transportation of baggage and household effects occurring after June 30, 1989.

37 USC 406 note.

PART B—SPECIAL PAY FOR CRITICAL PERSONNEL

C. 611. AVIATOR RETENTION BONUS

(a) BONUS AUTHORIZED.—(1) An aviation officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1989, executes a written agreement to remain on active duty in aviation service for at least one year may, upon the acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(2) The amount of such bonus shall be not more than—

(A) \$12,000 for each year covered by the agreement, if the officer agrees to remain on active duty to complete 14 years of commissioned service; or

(B) \$6,000 for each year covered by the agreement, if the officer agrees to remain on active duty for one or two years.

(3) The term of the agreement and the amount of payment may be varied as long as an agreement under this section does not extend beyond the date on which the officer would complete 14 years of commissioned service.

(4) Upon the officer's acceptance of the agreement, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

(b) COVERED OFFICERS.—(1) This section applies to an officer of a uniformed service who—

(A) is entitled to aviation career incentive pay under section 301a of title 37, United States Code;

(B) is in a pay grade below pay grade O-6;

(C) is qualified to perform operational flying duty;

(D) has completed at least six but less than 13 years of active duty;

37 USC 301b
note.
Contracts.

(E) has completed any active duty service commitment incurred for undergraduate aviator training; and

(F) is in an aviation specialty designated by the Secretary concerned, and approved by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, as critical.

(2) For purposes of paragraph (1)(F), an aviation specialty shall be considered subject to designation as critical when there exists a current shortage of officers in that specialty.

(c) **ADDITIONAL PAY.**—A retention bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

Contracts.

(d) **REFUNDS.**—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

Effective date.

(e) **CERTAIN PAY AGREEMENTS PROHIBITED.**—An agreement for special pay under section 301b of title 37, United States Code, may not be accepted by the Secretary of Defense after December 31, 1988.

(f) **REGULATIONS.**—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(g) **DEFINITIONS.**—In this section:

(1) The term “aviation service” means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(2) The term “aviation specialty” means a community of pilots or other designated aeronautical officers identified by type of aircraft or weapon system.

(3) The term “operational flying duty” has the meaning given such term by clause (6) of section 301a(a) of title 37, United States Code.

(4) The terms “grade”, “member”, “pay”, “Secretary concerned”, and “uniformed services” have the meanings given those terms by section 101 of title 37, United States Code.

(h) **REPORTS.**—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers with various amounts of aviation service by aviation specialty.

(2) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include, at a minimum, the following:

(A) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service, including a list of those aviators who are assigned to duty other than operational flying duty and a justification for such assignments.

(B) An analysis of current and projected aviator retention rates in the Armed Forces and of those current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(C) Such recommendations as the Secretary considers appropriate regarding—

(i) the initial active duty service commitment of aviators;

(ii) the integration of the aviator career incentive pay under section 301a of title 37, United States Code, and the retention bonus under this section into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(iii) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(D) Specific proposals for such legislation as the Secretary considers necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

j) **LIMITATION ON OBLIGATIONS.**—The total amount of payments due to officers of the Air Force during fiscal year 1989 under this section may not exceed \$36,200,000.

k) **TERMINATION OF AUTHORITY.**—If both reports required by paragraphs (1) and (2) of subsection (h) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

C. 612. MEDICAL OFFICER RETENTION BONUS

37 USC 302 note.
Contracts.

a) **BONUS AUTHORIZED.**—(1) A medical officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1989, executes a written agreement to remain on active duty for at least two years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(2) The amount of such retention bonus shall be not more than \$10,000 for each year covered by the agreement.

b) **COVERED OFFICERS.**—This section applies to an officer of a uniformed service who—

(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

(2) is in a pay grade below pay grade O-7;

(3) has at least eight years of creditable service (computed as described in section 302(g) of title 37, United States Code); and

(4) has completed any active-duty service commitment incurred for medical education and training (or will have completed any such commitment before October 1, 1991).

c) **LIMITATION ON TOTAL COMPENSATION.**—The Secretary of Defense shall ensure that no officer receives pay under this section which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds

the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are civilian physicians employed in the private sector in employment other than self-employment. The Secretary shall target payments under this section to officers in categories in which the most severe shortages exist in the Department of Defense.

(d) ADMINISTRATION AND IMPLEMENTATION.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

(e) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

(f) DEFINITIONS.—In this section, the terms “grade”, “member”, “pay”, “Secretary concerned”, and “uniformed services” have the meanings given these terms by section 101 of title 37, United States Code.

(g) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers in various categories.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following:

(i) An analysis of current and projected requirements of the Armed Forces for health professionals by speciality and years of service, including a list of requirements for physicians who are assigned to duties other than duties consisting primarily of providing patient care and a justification for those requirements.

(ii) The Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(iii) Such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) a compensation system which provides total compensation that is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment; or

(ii) a single military health care professional incentive compensation program (in lieu of special pay provided under chapter 5 of title 37, United States Code) which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code, is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment.

(h) **LIMITATION ON OBLIGATIONS.**—The total amount of payments made during fiscal year 1989 under this section may not exceed \$30,000,000.

(i) **TERMINATION OF AUTHORITY.**—If both reports required by paragraphs (1) and (2) of subsection (g) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE 37 USC 302 note

(a) **IN GENERAL.**—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed \$10,000.

Contracts.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) **REFUND REQUIREMENT.**—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) **INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.**—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

Contracts.

(d) **TERMINATION OF AGREEMENT AUTHORITY.**—No agreement under this section may be entered into after September 30, 1990.

(e) **PURPOSE OF PROGRAM.**—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) **REGULATIONS.**—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) **LIMITATIONS ON OBLIGATIONS.**—The total amount of payment made during fiscal year 1989 as the result of agreements entered into under this section may not exceed \$4,000,000.

(h) **REPORT.**—(1) Not later than September 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program provided for in this section is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(2) Not later than February 1, 1990, the Secretary also shall submit to such committees an evaluation of the effectiveness of the program and recommendations for its continuation or modification.

Contracts.

(i) **EFFECTIVE DATE.**—The authority to enter into agreements under this section shall take effect 30 days after the date on which the committees referred to in subsection (h)(1) receive the report required by such subsection.

PART C—OTHER PERSONNEL BENEFITS

SEC. 621. HOUSING LEASE INDEMNITY PROGRAM

(a) **IN GENERAL.**—(1) Chapter 53 of title 10, United States Code, amended by adding at the end the following new section:

"§ 1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord

"(a) The Secretary of Defense may carry out a program under which the Secretary of a military department agrees to indemnify a landlord who leases a rental unit to a member of the armed forces against a breach of the lease by the member or for damage to the rental unit caused by the member. In exchange for agreement to such indemnification by the Secretary, the landlord shall be required to waive any requirement for payment by the member of a security deposit that the landlord would otherwise require.

"(b)(1) For purposes of carrying out a program authorized in subsection (a), the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any landlord who agrees to waive the requirement for a security deposit in connection with the lease of a rental unit to a member of the armed forces under the jurisdiction of the Secretary. An agreement under this paragraph shall provide that

"(A) the term of the agreement shall remain in effect during the term of the member's lease and during any lease renewal periods with the lessor;

"(B) the member shall not pay a security deposit;

"(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the landlord for breach of the lease by the member and for damage to the rental unit caused by the member or by a guest or dependent of the member;

"(D) the total liability of the Secretary for a breach of the lease or for damage described in subparagraph (C) may not exceed an amount equal to the amount that the Secretary determines would have been required by the landlord as

security deposit in the absence of an agreement authorized in this paragraph;

“(E) the Secretary may not compensate the landlord for any claim for breach of the lease or for damage described in subparagraph (C) until the landlord exhausts any remedies available to the landlord (including submission to binding arbitration by a panel composed of military personnel and persons from the private sector) against the member for the breach or damage; and

“(F) the Secretary shall be subrogated to the rights of the landlord in any case in which the Secretary compensates the landlord for breach of the lease or for damage described in subparagraph (C).

“(2) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense.

Regulations.

“(c)(1) The Secretary of a military department who compensates a landlord under subsection (b) for a breach of a lease or for damage described in subsection (b)(1)(C) may issue a special order under section 1007 of title 37 to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the landlord as compensation for the breach or damage.

“(2) Before the Secretary of a military department issues a special order under section 1007 of title 37 to authorize the withholding of any amount from the pay of a member for a breach or damage referred to in paragraph (1), the Secretary concerned shall provide the member with the same notice and opportunity for hearing and record inspection as provided an individual under section 5514(a)(2) of title 5. The Secretary concerned shall prescribe regulations, subject to the approval of the President, to carry out this paragraph. Such regulations shall be as uniform for the military departments as practicable.

Records.

Regulations.

“(d) In this section, the term ‘landlord’ means a person who leases a rental unit to a member of the armed forces.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord.”.

(b) **EFFECTIVE DATE.**—Section 1055 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1988.

10 USC 1055
note.

SEC. 622. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) **IN GENERAL.**—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: “However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members who initially become entitled to such pay on or after such effective date.

10 USC 1401a
note.

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

(a) **IN GENERAL.**—Section 411e(a) of title 37, United States Code, amended by striking out “incident to the serious illness or injury of the death of a dependent of the member” and inserting in lieu thereof “incident to a personal emergency of the member”.

37 USC 411e
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to travel performed after September 30, 1988.

SEC. 624. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) **CHANGE FROM MANDATORY TO PERMISSIVE.**—Section 411g(a) of title 37, United States Code, is amended by striking out “is entitled to” and inserting in lieu thereof “may be paid”.

37 USC 411g
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act.

SEC. 625. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out “member” each place it appears and inserting in lieu thereof “officer”;

(2) by striking out “is entitled” and inserting in lieu thereof “may be paid”; and

(3) by striking out “member’s” and inserting in lieu thereof “officer’s”.

PART D—BENEFITS RELATING TO INCAPACITATION OF CERTAIN RESERVE MEMBERS IN LINE OF DUTY**SEC. 631. COMPENSATION FOR CERTAIN RESERVE MEMBERS**

(a) **AUTHORIZATION OF COMPENSATION.**—Subsections (g) and (h) of section 204 of title 37, United States Code, are amended to read as follows:

“(g)(1) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

“(A) in line of duty while performing active duty;

“(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

“(C) while traveling directly to or from such duty or training.”

“(2) In the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. In calculating earned income for the purpose of the preceding sentence, income from a income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

"(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, on request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from such duty or training.

"(2) The monthly entitlement may not exceed the member's demonstrated loss of earned income from nonmilitary or self-employment. In calculating such loss of income, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered."

(b) **LIMIT ON TOTAL COMPENSATION.**—Such section is further amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection (i):

"(i)(1) The total amount of pay and allowances paid under subsections (g) and (h) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(2) Pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

"(3) A member is not entitled to benefits under subsection (g) or (h) if the injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member.

"(4) Regulations with respect to procedures for paying pay and allowances under subsections (g) and (h) shall be prescribed—

Regulations.

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy."

(c) **CONFORMING AMENDMENT FOR INACTIVE-DUTY TRAINING.**—Section 206(a) of such title is amended by striking out "for a period of 30 days or less" in paragraph (3)(A)(i).

37 USC 206.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease.

37 USC 204 note.

SEC. 632. TRAVEL FOR DEPENDENTS OF CERTAIN MEMBERS

(a) **TRAVEL AUTHORIZED.**—Paragraph (2) of section 411h(a) of title 37, United States Code, is amended to read as follows:

“(2) A member referred to in paragraph (1) is a member of the uniformed services who—

“(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

“(B) is seriously ill or seriously injured; and

“(C) is hospitalized in a medical facility in or outside the United States.”.

37 USC 411.

(b) **TRAVEL TO BURIAL CEREMONIES.**—Section 411f(a) of such title is amended by striking out “for a period of 30 days or more in order to” and inserting in lieu thereof “or inactive duty in order that such dependents may”.

37 USC 411f
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1988.

SEC. 633. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) **AUTHORITY TO PRESCRIBE TRAINING.**—(1) Subsection (a) of section 2109 of title 10, United States Code, is amended to read as follows:

“(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all of the training prescribed under this subsection must be completed by a member before the member is commissioned.”.

(2) Subsection (b) of such section is amended—

(A) by striking out “may—” and inserting in lieu thereof “, with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title, may—”; and

(B) by striking out “field training” each place it appears and inserting in lieu thereof “such training”.

(3)(A) The heading of such section is amended to read as follows:

“§ 2109. Practical military training”.

(B) The item relating to such section in the table of sections at the beginning of chapter 103 of such title is amended to read as follows:

“2109. Practical military training.”.

(b) **COVERAGE FOR INJURY, DISABILITY, AND DEATH.**—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out “disability or death from an injury” and inserting in lieu thereof “an injury, disability, or death”; and

(B) by striking out “field” before “training”;

(2) in subsection (f), by striking out “while attending field training or a practice cruise under chapter 103 of title 10” and inserting in lieu thereof “by a military department in a facility of a military department”; and

(3) by adding at the end thereof the following new subsection:

“(g) For purposes of this section, the term ‘applicant for membership’ includes a student enrolled, during a semester or other enroll-

ment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution."

(c) **TRAINING INCLUDED WITHIN CERTAIN DEFINITIONS.**—(1) Paragraph (22)(D) of section 101 of title 38, United States Code, is amended—

(A) by striking out "field"; and

(B) by inserting "for a period of not less than four weeks and which must be completed by the member before the member is commissioned" after "title 10".

(2) Paragraph (23) of such section is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) by inserting after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10."

(d) **PAY STATUS WHILE IN CERTAIN TRAINING.**—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned."

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply only with respect to training performed after September 30, 1988.

10 USC 2109
note.

PART E—HEALTH CARE MANAGEMENT PROVISIONS

SEC. 641. REQUIREMENT TO SUBMIT END STRENGTHS AND MANPOWER REPORT FOR MEDICAL PERSONNEL

(a) **END STRENGTH REQUIREMENT.**—Section 115(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) At the same time the President submits the budget for any fiscal year to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress recommendations for the end strength levels for medical personnel for each component of the armed forces as of the end of that fiscal year. For purposes of this subparagraph, the term 'medical personnel' includes—

"(i) in the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

"(ii) in the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

"(iii) in the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

"(iv) enlisted personnel engaged in or supporting medically-related activities; and

"(v) such other personnel as the Secretary considers appropriate."

(b) **MANPOWER REPORT REQUIREMENT.**—Section 115(b)(3)(B) of such title is amended—

(1) by striking out "and" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new clause:

“(iv) the manpower required to perform the medical missions of the armed forces and the Department of Defense.”.

SEC. 642. REQUIREMENTS WITH RESPECT TO CERTAIN NAVY MEDICAL PERSONNEL

Of the amount appropriated for operation and maintenance for the Navy for fiscal year 1989, \$15,000,000 shall be available only for the pay and allowances of those civilian employees of the Navy—

(1) hired after September 30, 1988, to perform duties in support of Navy medical treatment facilities; and

(2) only to the extent that the number of such employees hired after that date results in a greater number of such employees performing those duties for the Navy than were performing those duties for the Navy on September 30, 1988.

SEC. 643. PROVISIONS RELATING TO NAVY HEALTH PROFESSION PERSONNEL

(a) **REPEAL.**—Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

(b) **MINIMUM REQUIREMENTS.**—(1) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1989, under section 401(2), 11,940 shall be available only for assignment to duties in health profession specialties.

(2) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1990, 12,240 shall be available only for assignment to duties in health profession specialties.

(3) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1991, 12,510 shall be available only for assignment to duties in health profession specialties.

SEC. 644. SHARING OF HEALTH-CARE RESOURCES BETWEEN THE DEPARTMENT OF DEFENSE AND THE VETERANS' ADMINISTRATION

Of the total amount appropriated for operation and maintenance for the Department of Defense for fiscal year 1989, \$20,000,000 shall be available only for sharing health-care resources between the Department of Defense and the Veterans' Administration under section 5011 of title 38, United States Code, or under section 1535 of title 31, United States Code.

SEC. 645. EXTENSION OF TERMINATION DATE FOR FORMER PUBLIC HEALTH SERVICE HOSPITALS AND REQUIREMENT THAT SUCH HOSPITALS BE COST EFFECTIVE

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended—

(1) by striking out “1988” in the first sentence and inserting in lieu thereof “1990”;

(2) by striking out “which identifies” in the second sentence and all that follows through the end of that sentence and inserting in lieu thereof the following: “which (1) identifies the facility whose status is being terminated, (2) specifies the date

on which such status is being terminated, and (3) certifies that more cost-effective medical and dental care for members and former members of the uniformed services or their dependents is available elsewhere in the same geographic area.”; and

(3) by inserting after the third sentence the following: “Each such copy of the order shall include a copy of the certification required in clause (3) of the second sentence of this subsection and shall contain cost data substantiating the termination decision and identifying how more cost-effective care could be provided to the affected individuals.”.

SEC. 646. ELIGIBILITY OF CERTAIN INSTITUTIONS TO RECEIVE REIMBURSEMENT UNDER CHAMPUS

(a) **ACTIVE-DUTY DEPENDENTS.**—(1) Section 1079(b) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: “The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.”.

(2) Section 1079 of such title is further amended by adding at the end the following new subsection:

“(m)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

Claims.

“(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

“(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital’s practices of not billing patients for payment are not resulting in increased costs to the Government.

“(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.”.

(b) **RETIREES AND THEIR DEPENDENTS.**—(1) Section 1086(b) of title 10, United States Code, is amended in paragraph (3) by adding at the end the following: “The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.”.

(2) Section 1086 of such title is further amended by adding at the end the following new subsection:

“(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services.

Claims.

“(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

“(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital’s practices of not billing patients for payment are not resulting in increased costs to the Government.

“(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.”.

10 USC 1079
note.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to medical care received after September 30, 1988.

PART F—MISCELLANEOUS

SEC. 651. LIMITED EXTENSION OF CERTAIN MEDICAL BENEFITS FOR FORMER SPOUSES

(a) **MEDICAL COVERAGE.**—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(f)(1) A person described in paragraph (2) shall be considered a dependent for purposes of this section for a period of one year after the date of the person’s final decree of divorce, dissolution, or annulment. In addition, if such a person purchases a conversion health policy within the one-year period referred to in the preceding sentence, such person shall be entitled, upon request, to medical and dental care prescribed by section 1077 of this title for a period of one year after the purchase of the policy for any condition of the person that existed on the date on which coverage under the policy begins and for which care is not provided under that policy.

“(2) A person referred to in paragraph (1) is a person who would qualify as a dependent under section 1072(2)(G) but for the fact that the person’s final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985.

“(3) In this subsection, the term ‘conversion health policy’ means a health insurance plan with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of persons described in paragraph (2).”.

Effective date.

(b) **CONFORMING AMENDMENT.**—Section 645(c) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 1072 note) is repealed effective as of the effective date of section 1076(f) of title 10, United States Code (as added by subsection (a)).

10 USC 1076
note.

(c) **TRANSITION.**—Any person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985, as in effect before its repeal by subsection (b), shall remain qualified as a dependent as specified in that section and shall become eligible for benefits in accordance with section 1076(f) of title 10, United States Code (as added by subsection (a)), when no longer qualified as a dependent pursuant to such section 645(c).

10 USC 1076
note.

(d) **EFFECTIVE DATE.**—Section 1076(f) of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in such section), whichever is later. Such section shall apply to persons whose decree of divorce, dissolution, or annulment becomes final after the date of the enactment of this Act.

SEC. 652. TECHNICAL CORRECTION TO SURVIVOR BENEFIT PLAN COVERAGE OF FORMER SPOUSES

(a) **INCLUSION OF FORMER SPOUSES IN SAVINGS PROVISION.**—Section 451(e)(1) of title 10, United States Code, is amended—

(1) by striking out “widow or widower” in subparagraph (A) and inserting in lieu thereof “widow, widower, or former spouse”; and

(2) by inserting “or former spouse” in subparagraph (B) after “A spouse”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply to payments under the Survivor Benefit Plan established under subchapter II of chapter 73 of title 10, United States Code, for periods after February 28, 1986.

10 USC 1451
note.

SEC. 653. ANNUITY FOR CERTAIN SURVIVING SPOUSES

10 USC 1448
note.

(a) **ANNUITY.**—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried and who is eligible for an annuity under section 4 of Public Law 92-425 (10 U.S.C. 1448 note).

(b) **AMOUNT OF ANNUITY.**—(1) An annuity payable under this section shall be paid at the rate of \$165 per month, as adjusted from time to time under subsection (c).

(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 411(a) of title 38, United States Code.

(c) **COST-OF-LIVING INCREASES.**—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(d) **RELATIONSHIP TO OTHER PROGRAMS.**—An annuity paid to a surviving spouse under this section is in addition to any pension to which the surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425. An annuity paid under this section shall not be considered as income for the purposes of eligibility for any such pension.

(e) **DEFINITIONS.**—For purposes of this section:

(1) The terms “uniformed services” and “Secretary concerned” have the meanings given those terms in section 101 of title 37, United States Code.

(2) The term “surviving spouse” has the meaning given the terms “widow” and “widower” in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(f) **EFFECTIVE DATE.**—Annuities under this section shall be paid for months beginning after the month in which this Act is enacted. No benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in the

preceding sentence. No benefit shall be paid to any person under this section unless an application for such benefit has been filed with the Secretary concerned by or on behalf of such person.

SEC. 654. REPORT ON DEFINITION OF DEPENDENT FOR CERTAIN PURPOSES

(a) **REPORT.**—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the desirability of providing in law a more uniform and consistent definition of the term “dependent” for the purpose of determining the eligibility of a person, based upon the relationship of such person to a member or former member of the uniformed services, for various rights and benefits provided by law, including the following:

- (1) Pay and allowances under title 37, United States Code.
- (2) Rights and benefits (including eligibility for travel and commissary store privileges) under chapters 53 and 54 of title 10, United States Code.
- (3) Medical and dental care under chapter 55 of title 10, United States Code.

(b) **DEADLINE FOR REPORT.**—The Secretary shall submit the report required by subsection (a) not later than March 15, 1989, together with such comments and recommendations for legislation as he considers appropriate.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

PART A—ORGANIZATION

SEC. 701. AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

“(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

“(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

“(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.”.

SEC. 702. DESIGNATION IN EACH MILITARY DEPARTMENT OF ASSISTANT SECRETARY WITH RESPONSIBILITY FOR FINANCIAL MANAGEMENT

(a) **DEPARTMENT OF THE ARMY.**—(1) Section 3016(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.”.

(2) Chapter 303 of such title is amended by adding at the end the following new section:

§ 3022. Financial management

10 USC 3022.

“(a) The Secretary of the Army shall provide that the Assistant Secretary of the Army for Financial Management shall direct and manage financial management activities and operations of the Department of the Army, including ensuring that financial management systems of the Department of the Army comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

“(1) supervise and direct the preparation of budget estimates of the Department of the Army and otherwise carry out, with respect to the Department of the Army, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

“(2) approve and supervise any project to design or enhance a financial management system for the Department of the Army; and

“(3) approve the establishment and supervise the operation of any asset management system of the Department of the Army, including—

“(A) systems for cash management, credit management, and debt collection; and

“(B) systems for the accounting for the quantity, location, and cost of property and inventory.

“(b)(1) Financial management systems of the Department of the Army (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

“(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

“(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

“(2) Such systems shall provide for—

“(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

“(B) the development and reporting of cost information;

“(C) the integration of accounting and budgeting information; and

“(D) the systematic measurement of performance.

“(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Army proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

“(d) The Assistant Secretary of the Army for Financial Management shall transmit to the Secretary of the Army a report each year

Reports.

on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Army financial management.”.

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3022. Financial management.”.

10 USC 5016.

(b) DEPARTMENT OF THE NAVY.—Section 5016(b) of such title is amended by adding at the end the following new paragraph:

“(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.”.

(2) Chapter 503 of such title is amended by adding at the end the following new section:

10 USC 5025.

“§ 5025. Financial management

“(a) The Secretary of the Navy shall provide that the Assistant Secretary of the Navy for Financial Management shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

“(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

“(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

“(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

“(A) systems for cash management, credit management, and debt collection; and

“(B) systems for the accounting for the quantity, location, and cost of property and inventory.

“(b)(1) Financial management systems of the Department of the Navy (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

“(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

“(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

“(2) Such systems shall provide for—

“(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

“(B) the development and reporting of cost information;

“(C) the integration of accounting and budgeting information; and

“(D) the systematic measurement of performance.

“(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Navy proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

“(d) The Assistant Secretary of the Navy for Financial Management shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.”.

Reports.

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“025. Financial management.”.

(c) DEPARTMENT OF THE AIR FORCE.—Section 8016(b) of such title is amended by adding at the end the following new paragraph:

10 USC 8016.

“(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.”.

(2) Chapter 803 of such title is amended by adding at the end the following new section:

§ 8022. Financial management

10 USC 8022.

“(a) The Secretary of the Air Force shall provide that the Assistant Secretary of the Air Force for Financial Management shall direct and manage financial management activities and operations of the Department of the Air Force, including ensuring that financial management systems of the Department of the Air Force comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

“(1) supervise and direct the preparation of budget estimates of the Department of the Air Force and otherwise carry out, with respect to the Department of the Air Force, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

“(2) approve and supervise any project to design or enhance a financial management system for the Department of the Air Force; and

“(3) approve the establishment and supervise the operation of any asset management system of the Department of the Air Force, including—

“(A) systems for cash management, credit management, and debt collection; and

“(B) systems for the accounting for the quantity, location, and cost of property and inventory.

“(b)(1) Financial management systems of the Department of the Air Force (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

“(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

“(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

“(2) Such systems shall provide for—

“(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

“(B) the development and reporting of cost information;

“(C) the integration of accounting and budgeting information; and

“(D) the systematic measurement of performance.

“(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Air Force proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

Reports.

“(d) The Assistant Secretary of the Air Force for Financial Management shall transmit to the Secretary of the Air Force a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Air Force financial management.”

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8022. Financial management.”

10 USC 8016.

(d) NUMBER OF ASSISTANT SECRETARIES IN THE DEPARTMENT OF THE AIR FORCE.—Section 8016(a) of such title is amended by striking out “three” and inserting in lieu thereof “four”.

10 USC 3016
note.

(e) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (b) shall take effect on January 20, 1989.

10 USC 8016
note.

(2) The amendments made by subsections (c) and (d) shall take effect on July 1, 1989, except that such amendments shall take effect on such earlier date, but not before January 21, 1989, as may be prescribed by the President in advance by Executive order.

SEC. 703. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting “, by and with the advice and consent of the Senate” after “President”.

5 USC 5316 note.

(b) PAY GRADE.—Notwithstanding section 5316 of title 5, United States Code, the General Counsel of each of the military departments shall be paid at the highest rate of basic pay payable under section 5382 of title 5, United States Code, to a member of the Senior Executive Service.

10 USC 3019
note.

(c) APPLICABILITY.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

10 USC 1251
note.

SEC. 704. DEFERRAL OF RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the

officer serving as Chairman of the Joint Chiefs of Staff for the term which began on October 1, 1987.

PART B—FORCE STRUCTURE

SEC. 711. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting “or to the United States element of the North American Air Defense Command” in the first sentence after “combatant commands”;

(2) in paragraph (2), by inserting “or to the United States element of the North American Air Defense Command” after “combatant commands”; and

(3) in paragraph (3), by inserting “or to the United States element of the North American Air Defense Command” after “combatant command”.

SEC. 712. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) by striking out “activities, including the following functions:” and inserting in lieu thereof “activities.

“(2) The commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):”;

(2) by striking out subparagraphs (F) and (G);

(3) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively;

(4) by inserting after subparagraph (A) the following new subparagraphs:

“(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

“(C) Exercising authority, direction, and control over the expenditure of funds—

“(i) for forces assigned to the special operations command; and

“(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.”;

(5) by striking out paragraph (2) (as in effect immediately before the enactment of this Act) and inserting in lieu thereof the following:

“(3) The commander of the special operations command shall be responsible for—

“(A) ensuring the combat readiness of forces assigned to the special operations command; and

“(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

“(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

“(i) Development and acquisition of special operations-peculiar equipment.

“(ii) Acquisition of special operations-peculiar material, supplies, and services.”;

(6) by striking out “(3) Subject to” and inserting in lieu thereof “(B) Subject to”;

(7) by striking out “paragraph (1)(G)” and inserting in lieu thereof “subparagraph (A)”;

(8) by designating the sentence beginning “The staff of the commander” as subparagraph (C).

SEC. 713. STRATEGIC AIR DEFENSE ALERT MISSION

National Guard.

(a) **LIMITATION.**—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988.

(b) **REPORT.**—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to apply 180 days after the date on which Congress receives the report required by paragraph (1).

(c) **INTERIM REPORT.**—Not later than February 1, 1989, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report setting forth in detail each of the following:

(1) A description of the radar surveillance system and the alert and non-alert interceptor aircraft which will be available during each of fiscal years 1989, 1990, and 1991 along the northern border of the United States to carry out the strategic air defense mission.

(2) A description of the specific contributions to the strategic air defense mission expected to be made by the units identified in subsection (a) during each of those fiscal years.

(3) A specific recommendation as to whether the limitation in subsection (b) should be renewed and made permanent after fiscal year 1989.

SEC. 714. REPORTS ON BUDGETS FOR UNIFIED AND SPECIFIED COMMANDS

(a) **REPORTS BY COMMANDERS OF COMBATANT COMMANDS.**—(1) The commander of each of the unified and specified commands shall, not later than April 1, 1989, prepare an independent report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the commander concerned considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 153(a)(4) (A), (B), (C), and (D), relating to advice on requirements, programs, and budget.

(B) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(C) Section 166, relating to budget proposals for such commands.

(b) **MATTERS TO BE INCLUDED.**—Each report required by subsection (a) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (a)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (a)(2) that is not fully implemented and for which the commander is responsible or shares responsibility, the date estimated by the commander concerned for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (a)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) With respect to section 166 of title 10, United States Code, the assessment by the commander, supported by actual examples, of what the effect would be of a small budget (in an annual amount of not more than \$50,000,000) that would be managed by the Chairman of the Joint Chiefs of Staff but which would be controlled for execution by the commander and that would be available for activities to which the commander assigns a high priority, such as—

(A) JCS/non-JCS exercises (including foreign country participation);

(B) on-going contingencies;

(C) command and control;

(D) training; and

(E) selected operations.

(5) The views of the commander on the optimum role of the unified and specified commands in resource allocation decision-making and execution within the Department of Defense.

(6) The assessment of the commander concerning the degree to which that optimum role is played, as of the time of the preparation of the report, by his command.

(7) The assessment of the commander of whether current law, regulations, policies, and procedures provide the latitude for his command to play that optimum role.

(c) **REPORT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.**—(1) The Chairman of the Joint Chiefs of Staff shall, not later than April 1, 1989, prepare a report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the Chairman considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 113(g), relating to annual guidance by the Secretary of Defense to the heads of Department of Defense components.

(B) Section 153(a)(2)(A), relating to the preparation of strategic plans.

(C) Section 153(a)(3)(C), relating to the preparation and review of contingency plans.

(D) Section 153(a)(4), relating to advice by the Chairman to the Secretary of Defense concerning the requirements, programs, and budget of the Department of Defense.

(E) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(F) Section 166, relating to budget proposals for such commands.

(d) **MATTERS TO BE INCLUDED.**—The report required by subsection (c) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (c)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (c)(2) that is not fully implemented, the date estimated by the Chairman for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (c)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) The views of the Chairman on the optimum role of the unified and specified commands, the Joint Staff, and the Chairman in resource allocation decisionmaking and execution within the Department of Defense.

(5) The assessment of the Chairman concerning the degree to which those optimum roles are played, as of the time of the preparation of the report, by the unified and specified commands, the Joint Staff, and the Chairman.

(6) The assessment of the Chairman of whether current law, regulations, policies, and procedures provide the latitude for the unified and specified commands, the Joint Staff, and the Chairman to play those optimum roles.

(e) **SUBMISSION OF REPORTS.**—The commanders of the unified and specified commands shall each submit the report required by subsection (a) to the Secretary of Defense. The Chairman of the Joint Chiefs of Staff shall submit the report required by subsection (c) to

the Secretary. The Secretary shall transmit those reports, without change, to the Committees on Armed Services of the Senate and House of Representatives not later than April 1, 1989, together with such comments on the reports and such recommendations as the Secretary considers appropriate.

SEC. 715. REPORT ON INITIAL REVIEW OF UNIFIED COMMAND PLAN AND INITIAL REVIEW OF SERVICE ROLES AND MISSIONS

(a) **REPORT REQUIREMENT.**—Not later than April 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of sections 153(b) and 161(b) of title 10, United States Code.

(b) **INITIAL REVIEW OF SERVICE ROLES AND MISSIONS.**—With respect to the initial report of the Chairman of the Joint Chiefs of Staff to the Secretary of Defense under such section 153(b) (relating to the assignment of functions (or roles and missions) to the Armed Forces), the report under subsection (a) shall particularly describe how such report addressed each of the matters that the Chairman was required (under the second sentence of such section) to consider in preparing the report.

(c) **INITIAL REVIEW OF THE UNIFIED COMMAND PLAN.**—With respect to the initial review of the Chairman under such section 161(b) (relating to the missions, responsibilities, and force structures of the unified and specified combatant commands), the report under subsection (a) shall particularly describe how such review took into consideration each of the matters specified in paragraphs (1) through (10) of section 212(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1017).

(d) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall describe, with respect to the reports referred to in subsections (b) and (c)—

(1) the Secretary's evaluation of each of the findings and conclusions of the Chairman in each such report;

(2) how the Secretary has implemented (or proposes to implement) each of the recommendations in each such report; and

(3) such recommendations for further legislative and administrative action as the Secretary considers appropriate based on his review of the reports.

PART C—PERSONNEL-RELATED PROVISIONS

SEC. 721. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

10 USC 814 note

(a) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special

needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

(b) Not later than 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 722. ANNUITIES FOR JUDGES OF UNITED STATES COURT OF MILITARY APPEALS

(a) **IN GENERAL.**—Section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

“(i)(1) A judge of the United States Court of Military Appeals who is separated from civilian service in the Federal Government after completing the term of service for which he was appointed as a judge of the court is eligible for an annuity under this subsection. An individual who is a former judge of the court who is separated from civilian service in the Federal Government and who completed the term of service on the court for which he was appointed is eligible for an annuity under this subsection. A judge or former judge who is eligible for an annuity under this subsection shall be paid that annuity if he elects, at the time he becomes eligible to receive that annuity, to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

“(2) The annuity of a judge or former judge under this subsection is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the judge or former judge is separated from civilian service.

“(3) Nothing in this subsection affects any right of a judge or former judge to participate in the thrift savings plan under subchapter III of chapter 84 of title 5.

“(4) The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of judges and former judges who receive an annuity under this subsection. That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the judge or former judge as a condition for the annuity. An election by a judge or former judge to receive an annuity under this subsection terminates any right or interest which any individual may have to an annuity under any other retirement system for civilian employees of the Federal Government based on the service of the judge or former judge.

“(5) The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this subsection in order to take account of changes in the cost of living. The Secretary shall pre-

Regulations.

Regulations.

cribe by regulation procedures for increases in annuities under this subsection. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

“(6) A retired judge or former judge of the court who is receiving an annuity under this subsection and who is appointed to a position in the Federal Government shall, during the period of such retired judge's or former judge's service in such position, be entitled to receive only the annuity under this subsection or the pay for that position, whichever is paid at the higher rate.

“(7) A retired judge or former judge who is entitled to an annuity under this subsection and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this subsection, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by the judge or former judge at the time of such retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

“(8) Annuities and survivor annuities paid under this subsection shall be paid out of the Department of Defense Military Retirement Fund.”

(b) **DEADLINE FOR ESTABLISHMENT OF SURVIVOR PROGRAM.**—The Secretary of Defense shall establish the program required by paragraph (4) of section 867(i) of title 10, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act.

10 USC 867 note.

(c) **TECHNICAL AMENDMENT.**—Section 867(a)(4) of title 10, United States Code, is amended by inserting “or an annuity under subsection (i) or subchapter III of chapter 83 or chapter 84 of title 5” after “retired pay” both places it appears.

(d) **EFFECTIVE DATE.**—Subsection (i) of section 867 of title 10, United States Code, as added by subsection (a), shall apply with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act and to the survivors of such judges.

10 USC 867 note.

PART D—OTHER

SEC. 731. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

- (1) by inserting “(1)” after “(j)”;
- (2) by striking out the second sentence; and
- (3) by adding at the end the following:

“(2) Each such report shall—

“(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

“(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities

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and programs during the five years covered by the Five-Year Defense Program submitted to Congress during that year pursuant to section 114(g) of this title;

“(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

“(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

“(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.”

SEC. 732. LINKAGE OF NATIONAL MILITARY STRATEGY AND WEAPON ACQUISITION PROGRAMS

(a) FINDINGS.—Congress makes the following findings:

(1) The Final Report to the President by the President's Blue Ribbon Commission on Defense Management (the “Packard Commission”), the Defense Acquisition Study of the Center for Strategic and International Studies, and the Report of the Commission on Integrated Long-Term Strategy (referred to as “Discriminate Deterrence”) have separately identified significant deficiencies in the integration of weapon acquisition programs of the Department of Defense with national military strategy.

(2) There is no established process involving the Office of the Secretary of Defense and the Joint Staff in which strategy, policy, operational concepts, and resource constraints are fully debated, coordinated, and translated into weapon acquisition programs. The dominant role of setting requirements for new weapon systems remains with the headquarters staffs of the military departments, and the requirements developed by those departments often do not appear to have been rigorously evaluated in terms of their overall contribution to national military strategy.

(3) The requirements and planning process of the Department of Defense is not constrained by realistic projections of future defense budgets. Consequently, the process is fiscally unrealistic and, therefore, largely ignored in the subsequent planning and budgeting process. This process often results in disparate plans that do not optimize the potential contribution of the acquisition programs of each military department to the objectives of national military strategy.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) to ensure that the United States develops and acquires the proper mix of weapon systems to support national military strategy most effectively and efficiently, the Office of the Secretary of Defense and the Joint Staff should better define the links between national military strategy and specific acquisition programs;

Reports.

Classified
information.
Public
information.

(2) the Office of the Secretary of Defense, the Joint Staff, and the headquarters of the unified and specified combatant commands should more clearly define the necessary operational capabilities and concepts of operations as part of the requirements process and should explicitly consider alternative acquisition programs based on probable levels of resources likely to be approved by Congress and trade-offs among the acquisition programs of the military departments;

(3) the Secretary of Defense should ensure that resulting acquisition programs clearly reflect the objectives of national military strategy; and

(4) the Secretary of Defense should commission an independent study to assess the degree to which the development and acquisition of weapon systems is currently linked to and determined by the national military strategy and to recommend improvements where necessary or desirable.

SEC. 733. REPORT ON FUNDING FOR THE AMMUNITION PRODUCTION BASE

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the maintenance of the inactive portion of the Government-owned ammunition production base is critical to the defense of the United States; and

(2) that sufficient funding should be provided to maintain this base to meet surge requirements and mobilization requirements of the military departments.

(b) STUDY OF ALTERNATIVES.—The Secretary of Defense shall study alternatives to the current method of providing funds for maintenance of the ammunition production base in order to determine if there are methods other than the current one which would better ensure that appropriate levels of funds are used for the maintenance of that production base.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the alternative methods considered by the Secretary under subsection (b) for providing funds for the ammunition production base. The Secretary shall include in the report such comments and recommendations with respect to such methods, including recommendations for legislation, as the Secretary considers appropriate. The report shall be submitted not later than December 1, 1988.

SEC. 734. SENSE OF CONGRESS CONCERNING DECLASSIFICATION OF CLASSIFIED INFORMATION

It is the sense of Congress that the Secretary of Defense should take all reasonable measures to declassify classified material under the control of the Department of Defense that the Secretary determines to be no longer required in the interest of national security to be protected from unauthorized disclosure.

SEC. 735. ADVANCE PAYMENTS OF ADMINISTRATIVE CLAIMS

(a) INCREASE IN MAXIMUM PAYMENT.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

“(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to allow a claim, the Secretary of the military department concerned may

make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed \$100,000.

“(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

“(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of \$25,000 or less.

“(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act.

SEC. 736. ENERGY EFFICIENCY INCENTIVE

(a) **ENERGY CONSERVATION INCENTIVE.**—In order to provide additional incentive for the Secretary of a military department to enter into contracts under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.), the Secretary may use the first-year energy cost savings (as defined in subsection (d)) realized under any such contract in the manner provided in subsection (b). The amount of savings available for use under subsection (b) shall be determined as provided in subsection (c) and shall remain available for obligation until expended.

(b) **AUTHORIZED USES OF SAVINGS.**—First-year energy cost savings may be used as follows:

(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures at a military installation in addition to any such energy conserving measures provided for that installation under a contract entered into under title VIII of the National Conservation Energy Policy Act.

(2) One-half of the amount of such savings may be used for any morale, welfare, or recreation facility or service that is normally provided with appropriated funds, or for any minor military construction project (as defined in section 2805(a) of title 10, United States Code), that will enhance the quality of life of members of the Armed Forces at the military installation at which the energy cost savings were realized.

(c) **DETERMINATION OF AMOUNT OF SAVINGS.**—Not more than 90 days after the end of the first year during which energy savings measures have been in operation under a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act, the Secretary of the military department concerned shall determine the amount of first-year energy cost savings realized under the terms of the contract during that year by the military department concerned by reason of the energy savings measures acquired and installed at that installation pursuant to that contract.

Regulations.

10 USC 2736
note.

Contracts.
42 USC 8287
note.

(d) **DEFINITION.**—For purposes of this section, the term “first-year energy cost savings” means the savings realized by the United States during the first year of a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act.

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

PART A—ACQUISITION MANAGEMENT

Business and
industry.
Science and
technology.
Contracts.

SEC. 801. INTEGRATED FINANCING POLICY

(a) **IN GENERAL.**—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2330. Integrated financing policy

“(a) **PLAN.**—(1) The Secretary of Defense shall develop and keep current a plan that ensures that Department of Defense policies referred to in paragraph (2) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation.

“(2) This section applies to the following policies applicable to Department of Defense contracts:

“(A) Policies relating to progress payments or other financing by the Department of Defense under such contracts.

“(B) Policies relating to the return on contractor investment under such contracts.

“(C) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

“(b) **MATTERS TO TAKE INTO CONSIDERATION.**—In developing the plan under subsection (a) and keeping such plan current, the Secretary shall take into consideration the following:

“(1) The Five-Year Defense Program submitted to Congress under section 114(g) of this title each year.

“(2) Department of Defense mobilization plans.

“(3) The different characteristics of separate segments and tiers of private industry.

“(4) The profitability of contracts negotiated by the Department of Defense in each fiscal year.

“(c) **REVIEW.**—Each year the Secretary of Defense shall review the plan developed under subsection (a) and shall report the results of such review to the Committees on Armed Services of the Senate and the House of Representatives in conjunction with the submission of the Five-Year Defense Program in such year.

“(d) **USE OF INFORMATION ON PROFITABILITY.**—The Secretary of Defense, in negotiating any contract, shall use the most current information on profitability developed or obtained by the Secretary of Defense. The Secretary shall submit a report to Congress each year in conjunction with the submission of the Five-Year Defense Program on the extent to which contracts negotiated during the preceding fiscal year have prevented excessive contractor profits, determined on the basis of information obtained by the Secretary of Defense.”

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(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“2330. Integrated financing policy.”

10 USC 2330
note.

(b) **ADVISORY COMMITTEE ON STUDY METHODOLOGY.**—(1) The Secretary of Defense shall appoint, in accordance with paragraph (3), an advisory committee consisting of five members for the purpose of recommending to the Secretary a financial analysis methodology for any return on investment study conducted by the Secretary.

(2) In recommending a financial analysis methodology under paragraph (1), the advisory committee shall provide recommendations on the desirability of using separate calculations for—

- (A) the return on assets;
- (B) the return on sales;
- (C) capital-to-labor ratios;
- (D) asset turnover;
- (E) total investment in research and development; and
- (F) such other measures of rate of return on investment as the

Secretary determines to be appropriate.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall appoint the members of the committee, with representation from both the public and private sectors.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

Reports.

(5) Not later than November 1, 1989, the advisory committee shall submit to the Secretary of Defense a report containing the financial analysis methodology recommended for use in the conduct of the study referred to in paragraph (1). The committee shall cease to exist 90 days after submission of its report.

Reports.

(6) Not later than 90 days after receipt of the report from the advisory committee, the Secretary of Defense shall transmit the report to Congress, together with the Secretary's views on the committee's report.

SEC. 802. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(e) **TERMINATION.**—This section shall cease to be effective on September 30, 1991.”

SEC. 803. DELEGATION OF AUTHORITY TO APPROVE CERTAIN CONTRACT JUSTIFICATIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out “or a delegate” and all that follows through the semicolon and inserting in lieu thereof “(or the head of the procuring activity's delegate designated pursuant to paragraph (6)(A));”;

(2) in paragraph (1)(B)(iii), by inserting “or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(B)” after “(without further delegation);” and

(3) by adding at the end the following:

“(6)(A) The authority of the head of a procuring activity under paragraph (1)(B)(ii) may be delegated only to an officer or employee who—

“(i) if a member of the armed forces, is a general or flag officer; or

“(ii) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers

or employees) that is comparable to or higher than the grade of brigadier general or rear admiral (lower half).

“(B) The authority of the Under Secretary of Defense for Acquisition under paragraph (1)(B)(iii) may be delegated only to—

“(i) an Assistant Secretary of Defense; or

“(ii) with respect to the element of the Department of Defense (as specified in section 111(b) of this title), other than a military department, carrying out the procurement action concerned, an officer or employee serving in or assigned or detailed to that element who—

“(I) if a member of the armed forces, is serving in a grade above brigadier general or rear admiral (lower half); or

“(II) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of major general or rear admiral.”.

SEC. 804. EVALUATION OF CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES

10 USC 2304
note.

(a) **ESTABLISHMENT OF CRITERIA.**—Within 120 days after the date of the enactment of this Act, the Secretary of Defense shall establish criteria to ensure that proposals for contracts for professional and technical services are evaluated on a basis which does not encourage contractors to propose mandatory uncompensated overtime for professional and technical employees. In establishing such criteria, the Secretary shall consider the recommendations of the advisory committee established under subsection (b). The Secretary shall, before implementing such criteria, transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing such criteria and the recommendations made by the advisory committee.

Reports.

(b) **ADVISORY COMMITTEE.**—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory committee to make recommendations on the criteria to be adopted by the Secretary. The advisory committee shall be composed, at a minimum, of such representatives as the Secretary considers appropriate from the Office of the Under Secretary of Defense for Acquisition, the Office of the Comptroller of the Department of Defense, the Acquisition Executives of the military departments, the Defense Contract Audit Agency, the Office of the Inspector General of the Department of Defense, and professional and technical services industries.

(2) In developing the recommendations, the advisory committee shall address the following issues:

(A) How the Department of Defense can best be assured that it receives the best quality services for the amounts expended and that the contractors supplying such services follow sound personnel management practices and observe established labor-management policies and regulations.

(B) Whether contract competitions should be structured in a manner that requires offerors to compete on the basis of factors other than the number of hours per week its professional and technical employees of similar annual salaries work.

(C) Whether the Department of Defense can allow contractors to maintain different accounting systems (for example, 40-hour work week, full time accounting) and still allow the Department

to evaluate proposals on the basis of a work rate of 40 hours per week and 2,080 hours per year.

SEC. 805. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS

(a) **IN GENERAL.**—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2382 the following:

“§ 2383. Procurement of critical aircraft and ship spare parts: quality control

“(a) In procuring any spare or repair part that is critical to the operation of an aircraft or ship, the Secretary of Defense shall require the contractor supplying such part to provide a part that meets all appropriate qualification and contractual quality requirements as may be specified and made available to prospective offerors. In establishing the appropriate qualification requirements, the Secretary of Defense shall utilize those requirements, if available, which were used to qualify the original production part, unless the Secretary of Defense determines in writing that any or all such requirements are unnecessary.

10 USC 2383
note.

“(b) In this section, the term ‘spare or repair part’ has the meaning given such term by section 2323(f) of this title.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2382 the following new item:

“2383. Procurement of critical aircraft and ship spare parts: quality control.”.

(b) **EFFECTIVE DATE.**—Section 2383 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 806. INCENTIVES FOR INNOVATION

(a) **IN GENERAL.**—(1) Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

“(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide a proposal that enables the United States to acquire competitively in the future an identical item if the item was developed exclusively at private expense unless the head of the agency determines that—

“(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

“(ii) proposals by the original supplier of such item to meet the mobilization requirements are insufficient to meet the agency’s mobilization needs.

“(B) In considering offers in response to a solicitation requiring proposals described in paragraph (1)(B) or (2)(B), the head of an agency shall base any evaluation of items developed exclusively at private expense on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.”.

(2) Section 2305(d)(3) of such title is amended by adding at the end the following: “Such objectives may not impair the rights of prospective contractors or subcontractors otherwise provided by law.”.

(b) **CLARIFYING AMENDMENT.**—Paragraphs (1)(B) and (2)(B) of section 2305(d) of such title are each amended by striking out “The proposals” and all that follows through “contract are” and inserting

lieu thereof "Proposals referred to in the first sentence of subparagraph (A) are".

SEC. 807. REGULATIONS ON USE OF FIXED-PRICE DEVELOPMENT CONTRACTS

(a) **IN GENERAL.**—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Department of Defense regulations that provide for the use of fixed-price type contracts in a development program. The regulations shall provide that a fixed-price contract may be awarded in such a program only if—

10 USC 2304
note.

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The regulations also shall provide that if a contract for development of a major system is to be awarded in an amount greater than \$10,000,000, the contract may not be a firm fixed-price contract.

(B) A waiver of the requirement prescribed in regulations under subparagraph (A) may be granted by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, but only if the Secretary determines and states in writing that the award is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the regulations prescribed under such paragraph. The Secretary may delegate the authority in the preceding sentence only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) **DEFINITIONS.**—In this section, the term "major system" has the meaning given such term by section 2302(5) of such title.

(c) **EXPIRATION.**—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 808. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) **ESTABLISHMENT OF ADVISORY PANEL.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) **MEMBERSHIP OF ADVISORY PANEL.**—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate

balance of persons from government, private industry, and academia.

(c) **REPORT DEADLINE.**—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 809. REPORT ON SIMPLIFICATION AND STREAMLINING OF ACQUISITION PROCEDURES

(a) **REPORT ON ACQUISITION SIMPLIFICATION PROGRAMS.**—The Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense. The report shall include an assessment of the results of those programs.

(b) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall include the following:

(1) A timetable to effectuate regulation reform measures based on the lessons learned from the conduct of the programs referred to in subsection (a).

(2) In the case of a program referred to in subsection (a) which has not been completed—

(A) the methodology to be used in evaluating such program; and

(B) a timetable for completing an assessment of the results of the program.

(3) A comprehensive analysis of the effects that existing laws, regulations, and guidelines applicable to procurement by the Department of Defense have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(4) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplicative audit and oversight of contractor activities by different elements of the Department of Defense.

(5) A discussion of the feasibility and desirability of each of the following:

(A) Structuring the audit and oversight of a contractor by the Department of Defense in a manner that reasonably relates to the extent of the risk assumed by the contractor in the type of contract that is subject to the audit and oversight.

(B) Granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities.

(C) Establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities.

(D) Establishing and implementing a policy that prohibits an organization within the Department of Defense with responsibility for oversight of contractor activities from conducting an audit or review of an activity in the Department of Defense if another such oversight organization of the Department of Defense has conducted an audit or review of that activity within a fixed period of time preceding the proposed audit or review, unless the audit or review proposed to be conducted is substantially different in type and scope from the prior audit or review and there is a compelling reason not to rely on the prior audit or review.

(c) **DEADLINE FOR REPORT.**—The report required by subsection (a) shall be submitted not later than December 1, 1988.

(d) **COORDINATION OF ANNUAL AUDIT PLANS BY AUDIT AND OVERSIGHT ELEMENTS OF DOD.**—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: “Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.”.

PART B—DEFENSE INDUSTRIAL BASE

SEC. 821. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

(a) **FINDINGS.**—Congress finds the following:

10 USC 2501
note.

(1) A strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity rapidly to meet the demands of a national emergency.

(2) A strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace.

(3) Studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States.

(4) Despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy.

(5) Reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized.

(6) The development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management.

(7) Existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and

management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management.

(8) Procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient commercial producers into the defense procurement market; and

(C) continued participation of efficient producers in defense procurement competitions.

(b) AMENDMENTS TO TITLE 10.—(1) Chapter 148 of title 10, United States Code, is amended—

(A) by redesignating sections 2501 and 2502 as sections 2506 and 2507, respectively; and

(B) by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

“CHAPTER 148—DEFENSE INDUSTRIAL BASE

“Sec.

“2501. Centralized guidance, analysis, and planning.

“2502. Policies relating to defense industrial base.

“2503. Defense industrial base office.

“2504. Defense memoranda of understanding.

“2505. Offset policy; notification.

“2506. Limitation on use of funds: procurement of goods which are other than American goods.

“2507. Miscellaneous procurement limitations.

“§ 2501. Centralized guidance, analysis, and planning

“The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

“(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

“(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of national defense strategy in time of peace and the expanded requirements of national defense strategy in time of war or national emergency;

“(3) develop clear standards for assessing military mobilization requirements and the manner in which those requirements will be met;

“(4) develop and direct the implementation of plans, programs, and policies that promote the ability of the defense industrial base of the United States to fulfill the requirements of the Department of Defense; and

“(5) identify and plan for the procurement of items of supply that—

“(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and

“(B) are commercially available from domestic sources.

2. Policies relating to defense industrial base

ACQUISITION POLICIES.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and implement policies requiring—

“(1) for each major defense acquisition program, an analysis of the capabilities of the defense industrial base to develop, produce, maintain, and support such program;

“(2) the consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the major defense acquisition program;

“(3) the use of advanced manufacturing technology, processes, and systems during the research and development and production phases of the acquisition of a weapon system under a major defense acquisition program;

“(4) to the maximum extent practicable for each major defense acquisition program, the development of an acquisition plan that provides for contract solicitations which encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs;

“(5) the encouragement of domestic source investment in advanced manufacturing technology production equipment and processes through—

“(A) recognition of the contractor’s investment in advanced manufacturing technology production equipment and processes in the development of the contract objective; and

“(B) increased emphasis in source selections to the efficiency of production;

“(6) the expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense;

“(7) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

“(8) the expanded use of commercial products as set forth in section 2325 of this title.

ANALYSIS.—(1) In the conduct of any analysis required under section (a)(1), the following factors, as appropriate, may be considered:

“(A) The availability of essential raw materials, special alloys, and composite materials.

“(B) The availability of components, subsystems, production equipment, and facilities that are essential for—

“(i) the sustained production of a system that is fully capable of performing its purpose;

“(ii) the uninterrupted maintenance and repair of such system; and

“(iii) the sustained operation of such system.

“(C) The availability of required special tooling and production test equipment.

“(D) The identification of components or subsystems that are available solely from sources outside the United States.

“(E) Planned alternatives, if appropriate, for fulfilling requirements that during peacetime are fulfilled by sources outside the United States.

“(2) In the conduct of the analysis required under subsection (a)(1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

“(c) ASSESSMENTS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall ensure that, for each major defense acquisition program—

“(A) the capability of the domestic defense industrial base to meet requirements for that program has been assessed by the military department or Defense Agency carrying out such program; and

“(B) the capability of the domestic defense industrial base to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

“(2) For purposes of this subsection, the term ‘domestic defense industrial base’ means firms engaged in production in the United States and Canada.

“§ 2503. Defense industrial base office

“The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense industrial base office to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. Such an office shall, at a minimum—

“(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

“(2) develop and propose plans and programs to encourage the use by the defense industries of the United States of advanced manufacturing technology and processes and investment in improved productivity;

“(3) propose, consistent with existing law, the repeal or amendment of the regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation (the single system of Government-wide procurement regulation as defined in section 4(4) of the Office of Federal Procurement Policy Act) and such other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity; and

“(4) evaluate and propose for testing innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

“(A) manufacturing processes; and

“(B) the acquisition procedures of the Department of Defense.”.

(2) The items relating to chapter 148 in the tables of chapters at the beginning of part IV of subtitle A of title 10, United States Code, and at the beginning of such subtitle, are each amended to read as follows:

“148. Defense Industrial Base 2501”.

(c) ANALYSIS OF DEFENSE INDUSTRIAL BASE CAPABILITY.—(1) The Under Secretary of Defense for Acquisition shall require the Secretary of each military department to provide to the Under Secretary at least one analysis of the type described in section 2502(a)(1) of title 10, United States Code (as added by subsection (b)) for an acquisition program carried out by such department. The Under Secretary shall compile and analyze the data obtained from such analysis in order to ascertain whether the industrial base is capable of supporting each such program.

10 USC 2502
note.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection.

Reports.

SEC. 822. SOURCE FOR PROCUREMENT OF CERTAIN VALVES AND MACHINE TOOLS

Section 2507 of title 10, United States Code, as redesignated by section 821, is amended by adding at the end the following new subsection:

“(d) VALVES AND MACHINE TOOLS.—(1) During fiscal years 1989, 1990, and 1991, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for the procurement of items described in paragraph (2) that are not manufactured in the United States or Canada.

“(2) Items covered by paragraph (1) are the following:

“(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

“(B) Machine tools in the Federal Supply Classes for metal-working machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

“(3) The Secretary of Defense may waive the requirement of paragraph (1) with respect to the procurement of an item if the Secretary determines that any of the following apply with respect to that item:

“(A) The restriction would cause unreasonable costs or delays to be incurred.

“(B) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

“(C) Satisfactory quality items manufactured in the United States or Canada are not available.

Canada.

“(D) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

“(E) The procurement is for an amount less than \$25,000 and simplified small purchase procedures are being used.

“(F) The restriction would result in the existence of only one United States or Canadian source for the item.

“(4) The provisions of this section may be renewed with respect to any item by the Secretary of Defense at the end of fiscal year 1991 for an additional two fiscal years if the Secretary determines that a continued restriction on that item is in the national security interest.”.

Arms and
munitions.

SEC. 823. CRITICAL TECHNOLOGIES PLAN

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2368. Critical technologies plan

“(a) ANNUAL PLAN.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

“(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

“(3) Such plan shall be submitted in both classified and unclassified form.

“(b) CONTENT OF PLAN.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

“(1) The reasons for selecting such technology.

“(2) The milestone goals for the development of such technology.

“(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year beginning in the year in which the plan is submitted.

“(4) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

“(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

“(6) With respect to the development of such technology, a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology and the extent to which the United States should depend on other countries for the development of such technology.

“(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2368. Critical technologies plan.”.

Classified
information.
Public
information.

b) **FIRST REPORT.**—The first report under section 2368 of title 10, United States Code (as added by subsection (a)), shall be submitted 10 USC 2368
1989. note.

C. 824. DEFENSE MEMORANDA OF UNDERSTANDING

Chapter 148 of title 10, United States Code, as amended by section 2504, is further amended by inserting after section 2503 the following new section:

2504. Defense memoranda of understanding

In the negotiation and renegotiation of each memorandum of understanding between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

“(1) consider the effect of such proposed memorandum of understanding on the defense industrial base of the United States; and

“(2) regularly solicit and consider information or recommendations from the Secretary of Commerce with respect to the effect on the United States industrial base of such memorandum of understanding.”.

C. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

a) **FINDINGS.**—Congress makes the following findings:

10 USC 2505
note.

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as “offsets”, are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.—Chapter 148 of title 10, United States Code, as amended by sections 821 and 824, is further amended by inserting after section 2504 the following new section:

President of U.S. **“§ 2505. Offset policy; notification**

“(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

“(1) Transfer of technology in connection with offset arrangements.

“(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

“(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

“(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

“(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

“(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

“(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding \$50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in

Claims.

Regulations.

accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘United States firm’ means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

“(2) The term ‘foreign firm’ means a business entity other than a United States firm.”.

(c) NEGOTIATIONS.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country.

President of U.S.
10 USC 2505
note.

(2) Every effort shall be made to achieve such agreements within two years after the date of the enactment of this Act.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following:

President of U.S.

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following possible actions:

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

SEC. 826. ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts \$2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year."

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services of the Senate and House of Representatives a report that includes the following:

Regulations.

10 USC 2324
note.

10 USC 2324
note.

1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act.

10 USC 2324
note.

PART C—POLICIES RELATING TO DEFENSE CONTRACTORS

1. ADDITIONAL PROHIBITIONS ON PERSONS CONVICTED OF FELONIES RELATED TO DEFENSE CONTRACTS

IN GENERAL.—Section 2408(a) of title 10, United States Code, is amended to read as follows:

PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following:

Fraud.

“(A) Working in a management or supervisory capacity on any defense contract.

“(B) Serving on the board of directors of any defense contractor.

“(C) Serving as a consultant to any defense contractor.

“(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract.

Regulations.

Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction. The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that the five-year period should be waived in the interests of national security. If the five-year period is waived, the individual shall submit to Congress a report stating the reasons for the waiver.”.

Reports.

EFFECTIVE DATE.—Section 2408(a) of title 10, United States Code, as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act.

10 USC 2408
note.

2. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS

Law
enforcement and
crime.

LIMIT ON COSTS.—Section 2324(e) of title 10, United States Code, is amended—

(1) by adding at the end of paragraph (1), as amended by section 322(a), the following:

“(N) Except as provided in paragraph (2), costs incurred in connection with any civil, criminal, or administrative action brought by the United States that results in a determination that a contractor has violated or failed to comply with any Federal law or regulation if the action results in any of the following:

“(i) In the case of a criminal action, a conviction (including a conviction pursuant to a plea of nolo contendere).

“(ii) In the case of a civil or administrative action, (I) a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful, and (II) the imposition of a monetary penalty.

“(iii) A final decision by an appropriate official of the Department of Defense to debar or suspend the contractor or to rescind, void, or terminate a contract awarded to such contractor if such decision is based on a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful.”;

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) (as amended by paragraph (1)) the following:

“(2) If a civil, criminal, or administrative action referred to in paragraph (1)(N) is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the contractor’s costs that are otherwise not allowable under paragraph (1)(N) may be allowed to the extent provided in such agreement.”.

10 USC 2324
note.

(b) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations to implement section 2324(e)(1)(N) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

10 USC 2324
note.

SEC. 833. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) **AIR FARE DISCOUNT AGREEMENTS.**—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors who are traveling solely in the performance of covered contracts to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

Regulations.

(b) **ALLOWABLE COSTS.**—Not later than 120 days after the first agreement goes into effect between the Administrator of General Services and a commercial air carrier under subsection (a), the Secretary of Defense shall prescribe regulations that provide that costs for travel by commercial air carrier by an employee of a defense contractor that exceed the air passenger transportation rates established under the agreement are not allowable costs under section 2324 of title 10, United States Code, under a covered contract if—

(1) the rate was available; and

(2) travel could have reasonably been performed under the conditions required by the air carrier to qualify for such rate.

(c) **COVERED CONTRACT.**—In this section, the term “covered contract” has the meaning given such term by section 2324(k) of title 10, United States Code.

(d) **EXPIRATION.**—This section shall cease to be effective three years after the date of the enactment of this Act.

SEC. 834. STANDARDS FOR CONTRACTOR INVENTORY ACCOUNTING SYSTEMS

(a) **IN GENERAL.**—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2410b. Contractor inventory accounting systems: standards

Regulations.

“The Secretary of Defense shall prescribe in regulations—**“(1) standards for inventory accounting systems used by contractors under contract with the Department of Defense; and****“(2) appropriate certification and enforcement requirements with respect to such standards.”.****(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:****“2410b. Contractor inventory accounting systems: standards.”.****(b) REGULATIONS.—(1) The Secretary of Defense shall prescribe the regulations required by paragraph (1) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 30 days after the date of the enactment of this Act.**10 USC 2410b
note.**(2) The Secretary of Defense shall prescribe the regulations required by paragraph (2) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.****SEC. 835. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT**

No funds appropriated pursuant to any authorization in this Act or in any previous Act may be expended or obligated for the performance of contract number DA AJ09-88-C-A093 by a contractor outside the United States unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities for all individuals irrespective of race, color, religion, sex, or national origin in its employment practices.

PART D—MISCELLANEOUS**SEC. 841. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM****(a) LIMITATION.—Section 2414 of title 10, United States Code, is amended to read as follows:****“§ 2414. Limitation**State and local
governments.**“(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—****“(1) in the case of a program operating on a Statewide basis, \$300,000; or****“(2) in the case of a program operating on less than a Statewide basis, \$150,000.****“(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a Statewide basis or on less than a Statewide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.”.**

Regulations.

(b) PROCUREMENT TECHNICAL ASSISTANCE FOR INDIAN TRIBAL ORGANIZATIONS.—(1) Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out “for fiscal year 1988,” and inserting in lieu thereof “for fiscal years 1988 and 1989,”.**(2) Section 2411(1)(D) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof**

“, whether or not such economic enterprise is organized for-profit, or nonprofit purposes.”.

SEC. 842. PRODUCT EVALUATION

(a) **IN GENERAL.**—Chapter 139 of title 10, United States Code, as amended by section 823, is further amended by adding at the end the following new section:

“§ 2369. Product evaluation activity

“(a) **ESTABLISHMENT.**—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program for the supervision and coordination of product evaluation activities within the Department of Defense.

“(b) **CONDUCT OF PRODUCT EVALUATION.**—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct appropriate product evaluation activities.

“(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

“(c) **COST SHARING.**—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation. For product development proposed by a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)), the Secretary of Defense may pay up to 85 percent of the cost of product evaluation if the small business concern agrees to a not-for-profit contract.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter, as amended by section 823, is further amended by adding at the end the following new item:

“2369 Product evaluation activity.”.

SEC. 843. CONTRACT GOAL FOR MINORITIES IN PRINTING-RELATED SERVICES

44 USC 502 note.

(a) **TEST PROGRAM.**—The Public Printer shall establish and, during fiscal years 1989 and 1990, carry out a test program for increasing its award of contracts to small and disadvantaged businesses for the printing, binding, and related services needed by the Department of Defense. The program shall have a goal of procuring in each such fiscal year from such businesses printing, binding, and related services equivalent to not more than 5 percent of the value of the printing, binding, and related services which were procured in the preceding fiscal year by the Government Printing Office from non-Government sources for the Department of Defense. The Public Printer may use such procurement procedures as he considers necessary to facilitate achievement of such goal

(b) **COVERED ENTITIES.**—In this section, the term “small and disadvantaged businesses” means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973).

(c) **ENFORCEMENT.**—Any person who, for the purpose of securing a contract under subsection (a), misrepresents the status of any con-

or person as a small business concern referred to in subsection (a) shall be subject to the penalties set forth in section 1207(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3974).

SECTION 1207 GOALS.—For the purpose of determining whether the Department of Defense has attained the goals set forth in section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973), the Secretary of Defense may count any procurements by the Public Printer in the Department established under subsection (a).

44. EXTENSION OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended in subsections (a) and (h) by striking out “and 1989” and inserting in lieu thereof “1989, and 1990”.

10 USC 2301
note.

5. DEADLINE FOR CERTAIN SMALL BUSINESS REGULATIONS

Section 3(a)(4)(C) of the Small Business Act (15 U.S.C. 632) is amended by inserting at the end the following: “Such regulations shall apply with respect to contracts entered into on or after September 1, 1988.”.

46. SAFEGUARDING OF MILITARY WHISTLEBLOWERS

MILITARY WHISTLEBLOWER PROTECTION.—(1) Section 1034 of title 50, United States Code, is amended to read as follows:

34. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions

RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS OR INSPECTOR GENERAL PROHIBITED.—(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

Paragraph (1) does not apply to a communication that is lawful.

PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for reporting or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted. Any action prohibited by the preceding sentence (including a threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

INSPECTOR GENERAL INVESTIGATION OF CERTAIN ALLEGATIONS.—(1) If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation. (b) A communication described in this paragraph is a communication to a Member of Congress or an Inspector General that subsection (a) may not be restricted in which the member of

the armed forces makes a complaint or discloses information that the member reasonably believes constitutes evidence of—

“(A) a violation of a law or regulation; or

“(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

“(3) The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

“(4) If the Inspector General has not already done so, the Inspector General shall commence a separate investigation of the information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (2). The Inspector General is not required to make such an investigation if the information that the member believes evidences wrongdoing relates to actions which took place during combat.

Reports.

“(5) Not later than 30 days after completion of an investigation under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense and the member of the armed forces concerned. In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.

“(6) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (5) within 90 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense and to the member making the allegation a notice—

“(A) of that determination (including the reasons why the report may not be submitted within that time); and

“(B) of the time when the report will be submitted.

“(7) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

“(d) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—

(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

“(2) In resolving an application described in paragraph (1), a correction board—

“(A) shall review the report of the Inspector General submitted under subsection (c)(5);

“(B) may request the Inspector General to gather further evidence; and

“(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

“(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

“(A) may be provided with representation by a judge advocate if—

“(i) the Inspector General, in the report under subsection (c)(5), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

“(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

“(iii) the member is not represented by outside counsel chosen by the member; and

“(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (c)(5).

“(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

“(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

“(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

“(e) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (d), the member or former member of the armed forces who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

“(f) POST-DISPOSITION INTERVIEWS.—After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter.

“(g) REGULATIONS.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘Member of Congress’ includes any Delegate or Resident Commissioner to Congress.

“(2) The term ‘Inspector General’ means—

“(A) an Inspector General appointed under the Inspector General Act of 1978; and

“(B) an officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces.”

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

“1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions.”

10 USC 1034
note.

(b) **DEADLINE FOR REGULATIONS.**—The Secretary of Defense and the Secretary of Transportation shall prescribe the regulations required by subsection (g) of section 1034 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act.

10 USC 1034
note.

(c) **REPORT.**—(1) The Inspector General of the Department of Defense (and the Inspector General of the Department of Transportation with respect to the Coast Guard) shall submit to Congress a report on the activities of the Inspector General under section 1034 of title 10, United States Code, as amended by subsection (a). The report shall include, in the case of each case handled by the Inspector General under that section, a description of—

(A) the nature of the allegation described in subsection (c) of that section;

(B) the evaluation and recommendation of the Inspector General with respect to the allegation;

(C) any action of the appropriate board for the correction of military records with respect to the allegation;

(D) if the allegation is determined to be meritorious, any corrective action taken; and

(E) the views of the member or former member of the armed forces making the allegation (determined on the basis of the interview under subsection (f) of that section) on the disposition of the case.

(2) The Inspector General shall include with the report under this subsection copies of the individual case reports for each such allegation.

(3) The report under this subsection shall be submitted not later than February 1, 1990.

10 USC 1034
note.

(d) **EFFECTIVE DATE.**—The amendment to section 1034 of title 10, United States Code, made by subsection (a)(1), shall apply with respect to any personnel action taken (or threatened to be taken) on or after the date of the enactment of this Act as a reprisal prohibited by subsection (b) of that section.

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) **FINDINGS.**—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 902. SENSE OF CONGRESS ON START TALKS

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution “to raise and support Armies” and “provide and maintain Navies” and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the "ABM Treaty" or the "Treaty") in Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty."

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place.

President of U.S.

President of U.S.

SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) AMENDMENT TO PUBLIC LAW 99-145.—The text of section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended to read as follows:

"(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

"(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

"(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the

Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such imbalances.

“(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, 1990.

22 USC 2592a
note.

C. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

President of U.S.
22 USC 2592b.

(1) A description of the nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the effect that proposed treaty ceilings, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) **EXPLANATION OF METHODOLOGY.**—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) **FORM OF REPORT.**—The President shall submit such report in both classified and unclassified form.

President of U.S.

SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

(a) **STUDY.**—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

(b) **ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.**—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system

deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

(c) **REPORT.**—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.

Classified
information.
Public
information.

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) **PRESIDENTIAL REPORT.**—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

(c) **FORM OF REPORT.**—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 909. ON-SITE INSPECTION AGENCY

(a) **REPORT REQUIREMENTS.**—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections (whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the report has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

(A) The Secretary of Defense.

(B) The Secretary of State.

(C) The Director of Central Intelligence.

(D) The Director of the United States Arms Control and Disarmament Agency.

(b) **MATTERS TO BE INCLUDED.**—Each report under subsection (a) shall—

(1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,

(2) evaluate the effectiveness with which these functions have been implemented, and

(3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) **INF TREATY DEFINED.**—For purposes of subsection (b), the term “INF Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) **BUDGET REQUESTS.**—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other

President of U.S.
Classified
information.
Public
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agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year.

SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) **REPORT.**—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency.

President of

(b) **FINDINGS AND RECOMMENDATIONS.**—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

(1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.

(2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out “\$100,000,000” and inserting in lieu thereof “\$150,000,000”.

SEC. 1002. AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION

Section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) is amended by adding at the end the following:

“(3)(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

“(i) a weapon system partnership agreement; or

“(ii) a NATO/SHAPE project.

“(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

“(C) As used in this paragraph—

“(i) the term ‘weapon system partnership agreement’ means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

“(I) is entered into pursuant to the terms of the charter of that organization; and

“(II) is for the common logistic support of a specific weapon system common to the participating countries; and
 “(ii) the term ‘NATO/SHAPE project’ means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.”.

SEC. 1003. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) **IN GENERAL.**—Chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c) is amended by adding at the end the following new section:

22 USC 2796d.

“**SEC. 65. LOAN OF MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.**—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

Gifts and property.

Contracts.

“(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

“(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

“(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

“(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

“(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

“(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

“(d) For purposes of this section, the term ‘NATO or major non-NATO ally’ means a member country of the North Atlantic Treaty Organization (other than the United States) or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a).”.

(b) **CLERICAL AMENDMENT.**—The heading for such chapter is amended to read as follows:

“CHAPTER 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES”.

SEC. 1004. SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

22 USC 1928
note.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) **SENSE OF CONGRESS.**—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) **REPORT.**—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization

(referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) **SUBMISSION OF REPORT.**—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

USC 133 note.

SEC. 1006. IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

SEC. 1007. MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a) is amended—

(1) by striking out "Not later than January 1 of each year, the Secretary" and inserting in lieu thereof "The Secretary";

(2) by inserting " , whenever they consider such action to be warranted," after "Secretary of State"; and

(3) by inserting "to be added to or deleted from the existing designation of countries" in paragraph (1) after "countries".

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100-204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) **FINDINGS.**—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100-180 and in section 812(a)(1) of Public Law 99-93, the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to

defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100-180.

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b) ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 100-18-525 (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits.

22 USC 1928
note.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 or the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan.

President of U.S.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

**TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT
SUPPORT****SEC. 1101. ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS**

Section 113 of title 10, United States Code, is amended by adding to the end the following new subsection:

“(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.”.

10 USC 113 note.

SEC. 1102. LEAD AGENCY FOR DETECTION

(a) **DEPARTMENT OF DEFENSE TO SERVE AS LEAD AGENCY.**—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

Reports.

(b) **PRESIDENTIAL DETERMINATION.**—Not later than 15 days after the date of the enactment of this Act, the President may designate an agency other than the Department of Defense as the single lead agency for the purpose stated in subsection (a). Before making such a designation, the President shall notify the Committees on Armed Services of the Senate and House of Representatives of the proposed designation and shall submit to those committees a detailed report setting forth the reasons for such designation.

President of U.S.
10 USC 374 note.**SEC. 1103. COMMUNICATIONS NETWORK**

(a) **INTEGRATION OF C3I ASSETS.**—(1) The President shall direct that command, control, communications, and technical intelligence assets of the United States that are dedicated to the interdiction of illegal drugs be integrated by the Secretary of Defense into an effective communications network.

Reports.

(2) Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the plan of the President for the integration of assets by the Secretary of Defense under paragraph (1).

Reports.

(b) **PLAN FOR RESPONSIBILITY FOR OPERATING C3I NETWORK.**—Not later than 120 days after submission of the report required by subsection (a)(2), the President shall develop a plan for the assignment of responsibility for operating the communications network described in subsection (a)(1) and shall submit to Congress a report on such plan. The plan shall ensure that assignment of the responsibility for operating the communications network referred to in subsection (a)(1) is made not later than 60 days after the date on which the report required by this subsection is submitted to Congress.

**SEC. 1104. ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT
SUPPORT BY THE DEPARTMENT OF DEFENSE**

(a) **REVISION OF SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES.**—Chapter 18 of title 10, United States Code, is amended to read as follows:

**“CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN
LAW ENFORCEMENT AGENCIES**State and local
governments.

“Sec.

“371. Use of information collected during military operations.

“372. Use of military equipment and facilities.

“373. Training and advising civilian law enforcement officials.

“374. Maintenance and operation of equipment.

“375. Restriction on direct participation by military personnel.

“376. Support not to affect adversely military preparedness.

“377. Reimbursement.

“378. Nonpreemption of other law.

“379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.

“380. Enhancement of cooperation with civilian law enforcement officials.

“§ 371. Use of information collected during military operations

“(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

“(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

“(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

“§ 372. Use of military equipment and facilities

“The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

“§ 373. Training and advising civilian law enforcement officials

“The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

“(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

“(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

“§ 374. Maintenance and operation of equipment

“(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

“(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of

Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

“(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

“(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

Aircraft and air
carriers.
Maritime affairs.

“(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

“(A) Detection, monitoring, and communication of the movement of air and sea traffic.

“(B) Aerial reconnaissance.

“(C) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

“(D) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

“(E) Subject to joint approval by the Secretary of Defense, the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States—

“(i) the transportation of civilian law enforcement personnel; and

“(ii) the operation of a base of operations for civilian law enforcement personnel.

Maritime affairs.
Aircraft and air
carriers.

“(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(C) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

“(4) In this subsection:

“(A) The term ‘Federal law enforcement agency’ means an agency with jurisdiction to enforce any of the following:

“(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

“(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324-1328).

“(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) or any other territory or possession of the United States.

“(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

“(B) The term ‘land area of the United States’ includes the land area of any territory, commonwealth, or possession of the United States.

“(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to

ate equipment for purposes other than described in paragraph only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by

5. Restriction on direct participation by military personnel

Regulations.

The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any support (including the provision of any equipment or facility or the assignment or detail of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by any member of the Army, Navy, Air Force, or Marine Corps in a seizure, an arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by

6. Support not to affect adversely military preparedness

Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

Regulations.

7. Reimbursement

(a) To the extent otherwise required by section 1535 of title 31, United States Code (commonly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

(b) An agency to which support is provided under this chapter is required to reimburse the Department of Defense for such support if such support—

"(1) is provided in the normal course of military training or operations; or

"(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

8. Nonpreemption of other law

Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

9. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate United States naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have the authority of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

“(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

“(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

“(2) as are otherwise within the jurisdiction of the Coast Guard.

“(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

“(d) In this section, the term ‘drug-interdiction area’ means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

“§ 380. Enhancement of cooperation with civilian law enforcement officials

“(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

“(b) Each briefing conducted under subsection (a) shall include the following:

“(1) An explanation of the procedures for civilian law enforcement officials—

“(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

“(B) to obtain surplus military equipment.

“(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

“(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

“(c) The Attorney General and the Administrator of General Services shall—

“(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

“(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.”.

(b) **CLERICAL AMENDMENT.**—The item relating to such chapter in the tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, is amended to read as follows:

“18. Military Support for Civilian Law Enforcement Agencies 371”.

SEC. 1105. ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR THE NATIONAL GUARD

State and local
governments.
10 USC 374 note.

(a) **FUNDING ASSISTANCE.**—(1) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (2) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(A) for the purpose of drug interdiction and enforcement operations; and

(B) for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(2) The Secretary may provide funds under paragraph (1) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operation by a National Guard of a State if—

(A) such operations are conducted at a time when personnel of the National Guard of the State are under the command and control of State authority and are not in Federal service; and

(B) participation by a National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(3) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(4) Of the amounts appropriated pursuant to section 1106, the Secretary shall, for the purposes of paragraph (1), make available—

(A) not more than \$30,000,000 for operations and maintenance for the National Guard, and

(B) not more than \$30,000,000 for National Guard personnel.

(5) Nothing in this subsection shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(b) **TRAINING CRITERIA.**—The Secretary of Defense shall prescribe and enforce training criteria for the National Guard to enhance the capability of the National Guard to assist in drug abuse control activities.

(c) **PRESIDENTIAL REPORT.**—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the past effectiveness of using members of the National Guard for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States and on the potential for the effective use of such members for such purpose in the future.

SEC. 1106. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION

(a) **AUTHORIZATION OF APPROPRIATIONS.**—(1) In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of \$210,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for transfer to other appropriations available to the Department of

Defense and may be used only for the purposes stated in paragraph (2).

(2) Funds transferred under paragraph (1) may be used only for the mission of the Department of Defense set forth in section 113(1) of title 10, United States Code, as added by section 1101, for the activities of the Department of Defense under section 1103, and for National Guard drug interdiction activities described in section 1105. Such funds shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred.

(b) **TRANSFER OF FISCAL YEAR 1987 FUNDS.**—Of the amounts appropriated for the Navy for procurement of aircraft for fiscal year 1987, and which remain unobligated on the date of the enactment of this Act, the sum of \$90,000,000 shall be available only for the purposes set forth in subsection (a)(2). Such amount may be transferred to any appropriation made for the Department of Defense for fiscal year 1989 and shall be merged with, and be available for the same purpose as, the appropriation to which transferred. The period of the availability for obligation of any amount so transferred shall not be extended as a result of such transfer.

Reports.

(c) **NOTICE TO CONGRESS.**—(1) The Secretary of Defense may not transfer any funds appropriated pursuant to subsection (a) to another appropriation for obligation pursuant to this section and may not transfer or obligate any funds made available under subsection (b) until—

(A) the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report with respect to that transfer described in paragraph (2); and

(B) a period of 60 days elapses after the report is received by those committees.

(2) A report under paragraph (1) with respect to a transfer of funds shall set forth in detail the Secretary's proposal for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States.

SEC. 1107. REPORTS

President of U.S.

(a) **PROPOSALS.**—Not later than December 1, 1988, the President shall submit to Congress a report containing—

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

President of U.S.
Drugs and drug
abuse.

(b) **RADAR COVERAGE AND SOUTHERN BORDER.**—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of—

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

The President shall include in such report an assessment of the effectiveness—

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

The report under paragraph (1) shall be submitted not later than 60 days after the date of the enactment of this Act.

PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the Committee on Representatives a report containing the following information:

(A) The total number of times suspected drug smugglers landing aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 4(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 4(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 4(b) of title 10, United States Code, as amended by section 1104.

TITLE XII—GENERAL PROVISIONS**PART A—FINANCIAL AND BUDGET MATTERS****SEC. 1201. TRANSFER AUTHORITY**

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed \$3,000,000,000.

(b) **LIMITATIONS.**—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) **NOTICE TO CONGRESS.**—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1202. INCREASE IN FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORIZATION

Section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) in subsection (a)—

(A) by inserting “of this Act or any prior defense authorization Act” in paragraph (1) before “for any fiscal year”; and

(B) by striking out “\$2,000,000,000” in paragraph (2) and inserting in lieu thereof “\$4,000,000,000”; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

“(d) **SPECIFIED PURPOSES.**—In determining the purposes for which the authority provided by subsection (a) will be used, the Secretary of Defense shall ensure that to the extent that the total dollar amount of transfers under such authority exceeds \$2,000,000,000, an appropriate portion of that authority is used to transfer to military personnel accounts and operation and maintenance accounts of the Department of Defense for fiscal year 1988 (1) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, (2) funds for pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988, and (3) funds for pay of military personnel.

“(e) **NOTICE TO CONGRESS.**—The Secretary of Defense shall submit to Congress notice of each transfer made under the authority of this section. After the total dollar amount of such transfers equals or

ls \$2,000,000,000, the notice required by the preceding sen- with respect to any transfer shall be submitted not less than ys before the transfer is made, and any such notice shall then e identification of specific actions that the Secretary is taking ler to ensure that the transfer is made in compliance with ction (f).

CONTROL OF OUTLAYS.—In the case of any transfer under the rity of this section after the total dollar amount of such ers equals or exceeds \$2,000,000,000, the Secretary of Defense arry out such transfer only to the extent that such transfer, he expenditure of funds so transferred, do not result in an e in outlays by the Department of Defense during fiscal year

PART B—FISCAL YEAR 1988 UNAUTHORIZED APPROPRIATIONS

1211. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1988 DEFENSE APPROPRIATIONS

AUTHORITY.—The amounts described in subsection (b), totaling 4,600,000, may be obligated and expended for programs, ts, and activities of the Department of Defense in accordance fiscal year 1988 defense appropriations except as otherwise led in section 1212.

COVERED AMOUNTS.—The amounts referred to in subsection (a) e amounts provided for programs, projects, and activities of e partment of Defense in fiscal year 1988 defense appropria- that are in excess of the amounts provided for such programs, ts, and activities in fiscal year 1988 defense authorizations.

DEFINITIONS.—For the purposes of this part:

(1) **FISCAL YEAR 1988 DEFENSE APPROPRIATIONS.**—The term fiscal year 1988 defense appropriations” means amounts appropriated or otherwise made available to the Department of fense for fiscal year 1988 in the Department of Defense ppropriations Act, 1988 (as contained in section 101(b) of ublic Law 100-202).

(2) **FISCAL YEAR 1988 DEFENSE AUTHORIZATIONS.**—The term fiscal year 1988 defense authorizations” means amounts uthorized to be appropriated for the Department of Defense for scal year 1988 in the National Defense Authorization Act for scal Years 1988 and 1989 (Public Law 100-180).

1212. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts bed in section 1211(b) may not be obligated or expended for the ing programs, projects, and activities of the Department of se (for which amounts were provided in fiscal year 1988 e appropriations):

(1) Satellite Systems Survivability program under research, evelopment, test, and evaluation for the Air Force in the ount of \$5,300,000.

(2) Maxicube Cargo System under research, development, test, nd evaluation for the Army in the amount of \$10,000,000.

(3) Coastal Defense Augmentation in the amount of 0,000,000.

(4) Defense Meteorological Satellite program under research, development, test, and evaluation for the Navy in the amount of \$40,000,000.

(5) P-3C aircraft under procurement of National Guard and Reserve equipment in the amount of \$193,800,000.

(6) AN/SQR-17 Acoustic Processors for the Mobile Inshore Undersea Warfare group under procurement of National Guard and Reserve equipment in the amount of \$10,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) **FORWARD AREA AIR DEFENSE HEAVY SYSTEM.**—Funds appropriated or otherwise made available for the Army for procurement of missiles for fiscal year 1988 may not be obligated for advance procurement for the Forward Area Air Defense Line-of-Sight Forward-Heavy (LOS-F-H) system until—

(A) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that it is responsible to obligate funds for such purpose before operational testing of such system; and

(B) the Director of Operational Test and Evaluation of the Department of Defense certifies to those committees that he has approved the issues and criteria associated with the operational testing of such system.

(2) **A-6 AIRCRAFT CONFIGURATION.**—None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition report submitted to Congress for the quarter ending December 31, 1986).

(3) **TANK PROCUREMENT.**—Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of \$90,000,000 may be used only for procurement or modification of M1 Abrams tanks, of which \$30,000,000 shall be used for facilitization of Anniston Army Depot and initiation of the retrograde and modification programs for M1 tanks.

(c) **PROGRAM LIMITATIONS.**—All limitations and requirements set forth in division A of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall apply to the obligation of funds authorized by section 1211(a) in the same manner as if the funds made available for obligation by such section had been authorized in that Act.

(d) **TRANSFER AUTHORITY.**—For the purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, authorizations in section 1211(a) shall be deemed to have been made available to the Department of Defense in such Act.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), the amount of \$279,100,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts for the Army, Navy, and Air Force for the following purposes:

(1) Depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur.

(2) Pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to

sufficient funding for civilian personnel of the Department of Defense for fiscal year 1988.

(3) Pay of military personnel in amounts sufficient to provide necessary costs of maintaining authorized end strengths.

113. REPEAL OF CERTAIN APPROPRIATIONS GENERAL PROVISIONS

Sections 8040, 8098, and 8122 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-456) are repealed.

101 Stat.
1329-69,
1329-80; 10 USC
194 note.

PART C—NAVAL VESSELS AND SHIPYARDS

21. NAMING OF TRIDENT SUBMARINE THE U.S.S. MELVIN PRICE

FINDINGS.—The Congress finds that—

(1) the late Honorable Melvin Price served the people of the United States and the 21st Congressional District of Illinois as a member of the House of Representatives for 44 consecutive years with loyalty, dedication, and warm personal friendship until his death on April 22, 1988;

(2) Melvin Price served as a member of the Committee on Armed Services of the House of Representatives for 40 years and did so with total dedication to the goal of maintaining a strong national defense;

(3) in 1964, Melvin Price became the first chairman of the Research and Development Subcommittee of the Committee on Armed Services of the House of Representatives, and in 1975 became the first military veteran to serve as chairman of that committee, a position he held for 10 years;

(4) Melvin Price was a member of the Joint Committee on Atomic Energy from its establishment in 1946 until 1977 and served as the first chairman of that committee;

(5) Melvin Price played a major role in successfully advocating the peaceful use of nuclear energy and the military application of nuclear power for Navy ships and submarines; and

(6) Melvin Price has left an indelible mark on the history of the Nation as a result of his 44 years of unselfish efforts to maintain the strength and readiness of the Armed Forces.

SENSE OF CONGRESS.—In light of the findings expressed in section (a), it is the sense of Congress that the Secretary of the Navy should name the next Trident ballistic missile submarine to be commissioned after the enactment of this Act the U.S.S. Melvin Price.

22. NAMING A NAVY SHIP THE U.S.S. BOB HOPE

FINDINGS.—The Congress finds that—

(1) Bob Hope has unselfishly dedicated his time and efforts for over 50 years to the morale and welfare of the men and women in the Armed Forces;

(2) Bob Hope has served his Nation in three wars by entertaining members of the Armed Forces aboard ships at sea and in combat zones ashore;

(3) Bob Hope has during peacetime entertained the men and women of the Armed Forces in all regions of the world and at every season of the year;

(4) Bob Hope has placed his own safety and convenience second to that of improving the morale of the members of the Armed Forces; and

(5) Bob Hope has earned the undying respect and fond esteem of all of his countrymen for his dedicated and patriotic endeavors.

(b) **SENSE OF CONGRESS.**—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name an appropriate ship of the United States Navy the U.S.S. Bob Hope.

SEC. 1223. RATE OF PROGRESS PAYMENTS ON NAVAL SHIP REPAIR CONTRACTS

Section 7312(a) of title 10, United States Code, is amended by inserting “not less than” after “shall be”.

SEC. 1224. LIMITATION ON REPAIR OF NAVAL VESSELS IN FOREIGN SHIPYARDS

(a) **IN GENERAL.**—Section 7309 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

“(2) Paragraph (1) does not apply in the case of voyage repairs.”.

(b) **CLERICAL AMENDMENTS.**—(1) The heading of that section is amended to read as follows:

“§ 7309. Restrictions on construction or repair of vessels in foreign shipyards”.

(2) The item relating to such section in the table of sections at the beginning of chapter 633 of such title is amended to read as follows:

“7309. Restrictions on construction or repair of vessels in foreign shipyards.”.

(c) **EFFECTIVE DATE.**—Subsection (c) of section 7309 of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract for overhaul, repair, or maintenance of a vessel that is entered into after the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1225. COMPETITION BETWEEN PUBLIC AND PRIVATE SHIPYARDS FOR OVERHAUL OF NAVAL VESSELS

(a) **IN GENERAL.**—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 7313. Overhaul of naval vessels: competition between public and private shipyards

“The Secretary of the Navy should ensure, in any case in which the Secretary awards a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that each of the following criteria is met—

“(1) The bid of any public shipyard for the award includes—

“(A) the full costs to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by Office of Management and Budget Circular A-76 and

“(B) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs of the Navy supply system.

Contracts.
10 USC 7309
note.

“(2) Costs applicable to oversight of the contract by the appropriate Navy supervisor of shipbuilding, conversion, and repair are added to the bid of any private shipyard for the purpose of comparability analysis.

“(3) The award is made using the results of the comparability analysis.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“7313. Overhaul of naval vessels: competition between public and private shipyards.”

(b) **EFFECTIVE DATE.**—Section 7313 of title 10, United States Code, as added by subsection (a), applies to any award by the Secretary of the Navy made after the end of the 30-day period beginning on the date of the enactment of this Act for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards.

10 USC 7313
note.

SEC. 1226. DEPOT-LEVEL MAINTENANCE OF SHIPS

10 USC 7291
note.

(a) **REQUIREMENT THAT CERTAIN WORK BE CARRIED OUT IN THE UNITED STATES.**—The Secretary of the Navy shall require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenance work described in subsection (b) (measured in cost) shall be carried out in the United States.

(b) **WORK COVERED.**—Depot-level maintenance work referred to in subsection (a) is depot-level maintenance work for naval vessels that is scheduled as of October 1, 1988, to be carried out in Japan during fiscal years 1989, 1990, and 1991.

SEC. 1227. REPORTS ON EFFECTS OF NAVAL SHIPBUILDING PLANS ON MARITIME INDUSTRIES

10 USC 7291
note.

(a) **ANNUAL REPORT.**—The Secretary of Defense shall submit to Congress in 1989, 1990, and 1991 a report on how, under the current Five-Year Defense Program of the Department of Defense, programs for naval shipbuilding and conversion, for naval vessel repair, and for procurement of support equipment for naval vessels could be expected to affect the private-sector shipbuilding and ship repair industries of the United States in terms of the effectiveness and preparedness of those industries for mobilization in their role in the sealift component of the conventional deterrent of the United States.

(b) **TIME FOR SUBMISSION.**—The report under subsection (a) for any year shall be submitted to Congress at the same time that the Secretary submits his annual report to Congress for that year under section 113(c) of title 10, United States Code.

SEC. 1228. REPORT ON ENCOURAGEMENT OF CONSTRUCTION IN UNITED STATES SHIPYARDS OF COMBATANT VESSELS FOR ALLIES

(a) **REPORT REQUIREMENT.**—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the manner in which the Secretary has complied, as of the date of the report, with the provisions of section 1455 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 761); and

(2) plans of the Secretary for such compliance in the future.

(b) **MATTERS TO BE INCLUDED.**—The report shall include information regarding the following:

(1) Instances in which the Secretary has encouraged United States shipyards to construct combatant vessels for nations friendly to the United States.

(2) Steps taken by the Secretary to ensure that no effort has been made by any element of the Department of the Navy to inhibit, delay, or halt the provision of any United States naval system which has been approved for export to an allied nation.

(3) Instances in which the Secretary has encouraged United States firms to participate in construction programs outside of the United States in shipyards of allied nations.

(4) Future plans of the Secretary for complying with the requirements of each of subsections (a)(1) through (a)(3) of that section.

(c) **SUBMISSION OF REPORT.**—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 1229. REPORT ON SMALL PATROL BOATS OF NAVY

(a) **REPORT REQUIREMENT.**—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in the report—

(1) a discussion of the contingencies that would require the use of small patrol boats rather than larger warships;

(2) an evaluation of the existing capability of the Navy to carry out missions requiring the use of small patrol boats;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions that would require the use of such boats.

(b) **SMALL PATROL BOAT DEFINED.**—For purposes of this section, a small patrol boat is a patrol boat that is less than 150 feet in length.

(c) **DEADLINE FOR SUBMISSION OF REPORT.**—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

PART D—MISCELLANEOUS

SEC. 1231. REPORT ON SUSCEPTIBILITY OF DEFENSE COMPUTER ASSETS TO COMPUTER VIRUSES

The Secretary of Defense shall submit to Congress a report on the susceptibility of vital Department of Defense computer systems to so-called computer viruses and shall describe the steps which have been taken and are planned to be taken to protect the Department of Defense computer systems and records against computer viruses. Such report shall be submitted not later than March 1, 1989, in classified and unclassified form.

SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

(a) **FINDING.**—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National

Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)—

(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

(b) **SUBMISSION OF NEW REPORT.**—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989.

President of U.S.

SEC. 1233. TECHNICAL AND CLERICAL AMENDMENTS

(a) **REPEAL OF OBSOLETE REFERENCE.**—Section 1552 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out “therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later” and inserting in lieu thereof “for the correction within three years after he discovers the error or injustice”; and

(2) in subsection (c), by striking out “The department concerned” and inserting in lieu thereof “The Secretary concerned”.

(b) **DATE OF ENACTMENT REFERENCES.**—(1) Section 305a(d)(2) of title 37, United States Code, is amended by striking out “on or after the effective date specified in section 621(e)(1) of the National Defense Authorization Act for Fiscal Year 1988” and inserting in lieu thereof “after December 31, 1988,”.

(2) Section 3(c)(1) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(c)(1)) is amended by striking out “the date of the enactment of the National Defense Stockpile Amendments of 1987” and inserting in lieu thereof “December 4, 1987”.

(c) **CORRECTION OF MISSPELLED WORD.**—The table in section 1406(b) of title 10, United States Code, is amended by striking out “satisfactory” in the matter in the second column relating to section 1331 and inserting in lieu thereof “satisfactorily”.

(d) **REPEAL OF SURPLUS WORD.**—Section 2343(b) of title 10, United States Code, is amended by striking out “section” before “2306a”.

(e) **PUNCTUATION CORRECTIONS.**—(1) Section 1101(c) of title 10, United States Code, is amended by striking out “(1)” after “REGULATIONS.—”.

(2) Paragraph (3) of section 7430(b) of such title is amended—

(A) by aligning the paragraph flush to the margin; and

(B) by striking out the comma at the end and inserting in lieu thereof a period.

(f) **CAPITALIZATION CORRECTIONS.**—(1) Section 801(1) of title 10, United States Code, is amended by striking out “judge” and inserting in lieu thereof “Judge”.

(2) Section 101(5) of title 37, United States Code, is amended by striking out “secretary” and inserting in lieu thereof “Secretary”.

(g) CROSS-REFERENCE AMENDMENTS.—(1) Section 401(c)(2) of title 10, United States Code, is amended by striking out “subsection (a)” and inserting in lieu thereof “paragraph (1)”.

(2) Section 2133(b)(1) of title 10, United States Code, is amended by striking out “section 1431(e)” and inserting in lieu thereof “section 1431(f)”.

(3) Section 7427 of title 10, United States Code, is amended by striking out “section 17(j)” and “30 U.S.C. 226(j)” and inserting in lieu thereof “section 17(m)” and “30 U.S.C. 226(m)”, respectively.

(4) Section 1013 of title 37, United States Code, is amended by striking out “section 1051” and inserting in lieu thereof “section 1032”.

(h) REPEAL OF EXPIRED REPORTING REQUIREMENT.—Section 179 of title 10, United States Code, is amended by striking out subsection (e).

(i) SECTION HEADINGS.—(1)(A) The heading of section 3965 of title 10, United States Code, is amended to read as follows:

“§ 3965. Restoration to former grade: retired warrant officers and enlisted members”.

(B) The item relating to that section in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

“3965. Restoration to former grade: retired warrant officers and enlisted members.”.

(2)(A) The heading of section 8965 of title 10, United States Code, is amended to read as follows:

“§ 8965. Restoration to former grade: retired warrant officers and enlisted members”.

(B) The item relating to that section in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

“8965. Restoration to former grade: retired warrant officers and enlisted members.”.

(j) SUBSECTION HEADING.—Section 2329(d) of title 10, United States Code, is amended by inserting after “(d)” the following: “TREATMENT OF CERTAIN COSTS AS DIRECT COSTS.—”.

(k) DEFINITIONS.—(1) Section 2141(c) of title 10, United States Code, is amended by inserting “the term” after “In this chapter,”.

(2) Section 9511(1) of such title is amended by striking out “The term” and inserting in lieu thereof “The terms”.

(l) AMENDMENTS TO PUBLIC LAW 100-180.—(1) Section 623(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1101) is amended by inserting “in paragraphs (1) and (2)” before “and inserting”.

(2) Section 717(c) of such Act (101 Stat. 1114) is amended by striking out “on” in the quoted matter in paragraph (2) and inserting in lieu thereof “upon”.

(3) Paragraph (1) of section 802(a) of such Act (101 Stat. 1123) is amended by inserting end quotation marks and a period after “section.” at the end.

(4) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting “the first place it appears” before “and inserting”.

(5) The amendments made by this subsection shall apply as if included in the enactment of Public Law 100-180.

37 USC 301c.

10 USC 8855.

10 USC 2366.

10 USC 2435.

10 USC 2366
note.

SEC. 1234. REFERENCES TO THE CANAL ZONE

(a) **TITLE 10.**—Title 10, United States Code, is amended as follows:

(1) Sections 101(3), 101(10), 101(12), 269(g), 281, 594(b), 672(d), 771a(c), 802(a)(11), 802(a)(12), 936(a), 1002(c), 3040(a), 3218, 3225, 3259, 3352(a), 3363(b), 3390(a), 3392, 3500 (first sentence), 3501(a), 3501(b), 3845, 3848(c)(1), 3851(a), 3851(d)(1), 3852(a), 4301(c), 8218, 8225, 8259, 8352(a), 8360(b), 8363(a), 8381(a), 8392, 8500 (first sentence), 8501(a), 8501(b), 8845, 8851(a), 8852(a), and 9301(c) are each amended by striking out “the Canal Zone,” each place it appears.

(2) Sections 270(c) and 672(b) are each amended by striking out “, Puerto Rico, or the Canal Zone,” and inserting in lieu thereof “or Puerto Rico”.

(3) Sections 312(a)(2), 3500, and 8500 are each amended by striking out “Puerto Rico, and the Canal Zone” and inserting in lieu thereof “and Puerto Rico”.

(4) Sections 3364(g) and 3364(j) are each amended by striking out “, Puerto Rico, the Canal Zone,” and inserting in lieu thereof “or Puerto Rico”.

(5) Section 3370(d) is amended by striking out “Puerto Rico, the Canal Zone” and inserting in lieu thereof “or Puerto Rico”.

(6) Section 7308(a)(2) is amended by striking out “or the Canal Zone”.

(b) **TITLE 32.**—Title 32, United States Code, is amended as follows:

(1) Sections 101(4), 101(6), 103, 104(c), 104(d), 107(b), 109, 304, 314(a), 314(d), 315(a), 315(b), 333, 501(b), 503(b), 504(b), 702(b), 702(c), 702(d), 703, 704, 708(d), 710, 711, and 712 are each amended by striking out “the Canal Zone,”.

(2) Section 104(a) is amended by striking out “Each State and Territory, Puerto Rico, and the Canal Zone” and inserting in lieu thereof “Each State or Territory and Puerto Rico”.

(3) Section 331 is amended by striking out “the governor of the State or Territory, Puerto Rico, or the Canal Zone,” and inserting in lieu thereof “the Governor of the State or territory or Puerto Rico,”.

(4) Sections 327(a), 505(a), and 702(a) are each amended by striking out “Territory, Puerto Rico, or the Canal Zone,” and inserting in lieu thereof “Territory or Puerto Rico”.

(5) Section 314(b) is amended—

(A) by striking out “, the Canal Zone,” in the first sentence; and

(B) by striking out “or the Canal Zone” in the second sentence.

(6) Sections 324(b) and 325(a) are each amended by striking out “, the Canal Zone,”.

TITLE XIII—FOREIGN RELATIONS MATTERS**SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND**

(a) **FINDINGS.**—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission

of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

(b) **SENSE OF CONGRESS.**—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

President of U.S.
22 USC 2151
note.

SEC. 1302. LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) **LIMITATION.**—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attachés accredited to the Republic of Panama); and

Manuel Noriega.

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

(b) **CLARIFICATION.**—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) **REPORT.**—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) **FINDINGS.**—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrange-

ments under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—
(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of Congress—

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

Wojciech
Jaruzelski.

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

(b) The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

(a) **RESTRICTION.**—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China.

(b) **PRESIDENTIAL CERTIFICATION.**—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) **CONGRESSIONAL FINDINGS.**—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy.

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) **REPORT ON FACILITIES.**—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

SEC. 1309. ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN THE PHILIPPINES

10 USC 113 note.

The Secretary of Defense shall submit to Congress an annual report assessing security at United States military facilities in the Republic of the Philippines. Each such report shall include an

Reports.

assessment of the cooperation provided by the Philippine Government, at both the national and local level, in improving such security. The report required by this subsection shall be submitted to Congress not later than May 1 each year.

man rights.

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) STATEMENTS OF POLICY.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

President of U.S.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages:

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) **REPORTS TO CONGRESS.**—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct.

President of U.S.

(d) **REGULATION AUTHORITY.**—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section.

President of U.S.

(e) **EXPIRATION.**—The authority provided by subsection (b) shall expire on June 1, 1990.

TITLE XIV—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 1401. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, \$3,567,629,000, to be allocated as follows:

(A) For research and development, \$1,052,546,000.

(B) For weapons testing, \$524,238,000.

(C) For production and surveillance, \$1,909,445,000.

(D) For program direction, \$81,400,000.

(2) For defense nuclear materials production, \$1,556,772,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, \$169,000,000.

(B) For production reactor operations, \$587,976,000.

(C) For processing of defense nuclear materials, including naval reactors fuel, \$511,717,000, of which \$72,300,000 shall be used for special isotope separation.

(D) For supporting services, \$259,679,000.

(E) For program direction, \$28,400,000.

(3) For environmental restoration and management of defense waste and transportation, \$739,624,000, to be allocated as follows:

(A) For environmental restoration, \$170,925,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, \$532,042,000.

(C) For waste research and development, \$58,460,000.

(D) For hazardous waste process planning, \$8,377,000.

(E) For transportation management, \$9,720,000.

(F) For program direction, \$3,100,000.

- (4) For verification and control technology, \$146,200,000.
- (5) For nuclear materials safeguards and security technology development program, \$75,400,000.
- (6) For security investigations, \$40,000,000.
- (7) For naval reactors development, \$555,400,000.

SEC. 1402. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 89-D-101, general plant projects, various locations, \$26,500,000.

Project 89-D-121, general plant projects, various locations, \$29,194,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, \$2,000,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, \$4,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, \$800,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, \$7,600,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, \$5,400,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, \$7,300,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, \$22,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, \$72,352,000.

Project 88-D-122, facilities capability assurance program, various locations, \$79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, \$7,500,000.

Project 88-D-124, fire protection upgrade, various locations, \$6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, \$13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, \$5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, \$8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, \$26,000,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, \$12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, \$3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, \$5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, \$31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, \$6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, \$12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, \$1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, \$4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, \$2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, \$5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, \$3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, \$1,000,000.

Project 89-D-146, general plant projects, various locations, \$35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, \$2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, \$5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, \$35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, \$2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, \$50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, \$28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, \$72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, \$6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, \$12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, \$65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, \$11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, \$5,879,000.

(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, \$28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, \$4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, \$12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, \$1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, \$3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, \$3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, \$22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, \$1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, \$911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, \$2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, \$6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, \$2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, \$13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, \$92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, \$7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, \$2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, \$1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, \$600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, \$5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, \$2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, \$6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, \$272,254,000, including \$8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, \$102,500,000.

(C) For defense waste and environmental restoration, \$52,716,000.

- (D) For verification and control technology, \$8,400,000.
- (E) For nuclear safeguards and security, \$4,800,000.
- (F) For naval reactors development, \$48,000,000.

SEC. 1403. FUNDING LIMITATIONS

(a) **PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.**—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than \$262,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) **INERTIAL CONFINEMENT FUSION.**—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, \$163,770,000 shall be obligated or expended for the defense inertial confinement fusion program.

(c) **SRAM II.**—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) **SPECIAL ISOTOPE SEPARATION PROJECT.**—Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

(e) **PLUTONIUM RECOVERY MODIFICATION PROJECT.**—Funds appropriated or otherwise made available for the plutonium recovery modification project (project 89-D-125), Rocky Flats Plant, Golden, Colorado, may not be obligated or expended until the later of—

(1) 60 days after the President submits the report (relating to modernization of the nuclear weapons complex) required by section 3132 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988 (title I of division C of Public Law 100-180; 101 Stat. 1239); or

(2) February 15, 1989.

President of U.S.
Reports.

PART B—RECURRING GENERAL PROVISIONS

SEC. 1421. REPROGRAMMING

(a) **NOTICE TO CONGRESS.**—(1) Except as otherwise provided in this part—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) \$10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) **LIMITATION ON AMOUNT OBLIGATED.**—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 1422. LIMITS ON GENERAL PLANT PROJECTS

(a) **IN GENERAL.**—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed \$1,200,000.

(b) **REPORT TO CONGRESS.**—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds \$1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 1423. LIMITS ON CONSTRUCTION PROJECTS

(a) **IN GENERAL.**—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 1402 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) **EXCEPTION.**—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than \$5,000,000.

SEC. 1424. FUND TRANSFER AUTHORITY

(a) **IN GENERAL.**—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) **SPECIFIC TRANSFER.**—The Secretary of Defense may transfer to the Secretary of Energy not more than \$100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 1403(a).

SEC. 1425. AUTHORITY FOR CONSTRUCTION DESIGN

(a) **IN GENERAL.**—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed \$2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds \$300,000, the Secretary shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) **SPECIFIC AUTHORITY REQUIRED.**—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds \$2,000,000, funds for such design must be specifically authorized by law.

SEC. 1426. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 1402, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 1427. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 1421, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 1428. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 1431. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

(a) **ESTABLISHMENT.**—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Energy shall establish a review body to be known as the Program Review Group on Inertial Confinement Fusion (hereafter in this section referred to as the “Review Group”).

(2) It shall be the function of the Review Group to review thoroughly the accomplishments, management, goals, and anticipated contributions of the defense inertial confinement fusion program, for both the civilian and military sectors. Such review shall include—

(A) an assessment of the most promising technologies for continuation of the program; and

(B) an assessment of the potential contributions of the program under a prohibition of underground nuclear testing and under a limitation of underground nuclear testing to levels of 1 kiloton, 5 kilotons, and 10 kilotons.

(3) The Secretary of Energy shall appoint to serve on the Review Group only persons who, because of experience in the scientific disciplines associated with the development and testing of nuclear weapons, are most qualified to make findings of fact and recommendations to Congress and the Secretary concerning that program.

(b) **REPORTS.**—The Review Group shall submit to the Secretary and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives an interim report and a final report containing the results of its review, together with such recommendations regarding priorities for future work in the inertial confinement fusion program as it determines appropriate. The interim report shall be submitted before January 15, 1990, and the final report shall be submitted before September 15, 1990.

(c) **REVIEW AND COMMENT BY THE SECRETARY.**—(1) The Secretary of Energy shall review both the interim and final reports of the Review Group and submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives the following:

(A) An assessment of the budgetary priority, under current and anticipated budget restraints, that should be given to the inertial confinement fusion program of the Department of Energy in relation to the budgetary priority that should be given to core defense research and development programs of the Department to carry out the defense missions of the Department.

(B) Such additional comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his assessment and comments on each report referred to in subsection (b) not later than 30 days after receiving such report.

(d) **TERMINATION.**—Upon the submission of its final report, the Review Group shall cease to exist.

SEC. 1432. ASSISTANCE TO COMMUNITIES AFFECTED BY CLOSING OF N REACTOR

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal

programs administered by agencies other than the Department of Defense in order to assist the State of Washington and local communities near Hanford Reservation, Washington, in planning community adjustments required by the closure of the N Reactor.

SEC. 1433. REVIEW OF WASTE ISOLATION PILOT PLANT IN NEW MEXICO

(a) **CONTRACT REQUIREMENT.**—The Secretary of Energy shall enter into a contract with the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the “Institute”) to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in New Mexico (hereafter in this section referred to as the “WIPP”) as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year, beginning on March 31, 1989, and shall be renewable for four additional one-year periods with the consent of the Institute and subject to the authorization and appropriation of funds for such purpose.

Energy.
Safety.
Environmental
protection.

(b) **CONTENT OF CONTRACT.**—A contract entered into under subsection (a) shall require the following:

Science and
technology.

(1) The President of the Institute shall appoint a Director and Deputy Director, who shall be scientists of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for their integrity and scientific expertise. The Director shall carry out the work under the contract through a group known as the Environmental Evaluation Group and shall report directly to the President of the Institute.

Reports.

(2) The Director shall appoint staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise who represent scientific and engineering disciplines needed for a thorough review of the WIPP, including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The disciplines represented in the staff shall change as may be necessary to meet changed needs in carrying out the contract for expertise in any certain scientific or engineering discipline. Scientists employed under the contract shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS-13 through GS-16.

(3) Scientists employed under the contract shall have an appropriate support staff.

(4) The Director and Deputy Director shall each be appointed for a term of 5 years, subject to contract renewal, and may be removed only for misconduct or incompetence. The staff shall be appointed for such terms as the Director considers appropriate.

(5) The rates of pay of professional staff and the procedures for increasing the rates of pay of professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to professional staff under the contract.

(6) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act.

(7) Offices of the Environmental Evaluation Group shall be established in Carlsbad, New Mexico, and in Albuquerque, New Mexico, for carrying out the contract. The Director shall designate one of the offices as the administrative headquarters for carrying out the contract.

Public
information.

(8) The results of reviews and evaluations carried out under the contract shall be published.

(c) **ADMINISTRATION.**—The contract entered into under subsection (a) shall be administered under the direction of the President of the Institute. Such President shall establish general policies and guidelines to be used by the Director in carrying out the work under the contract. The Director shall be solely responsible for determining reviews and evaluations to be conducted by the Environmental Evaluation Group.

(d) **FUNDING.**—Funding for the contract shall be from amounts appropriated under section 1401. The amount of the initial one-year contract shall be not less than \$1,060,000.

(e) **CONSTRUCTION.**—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the requirements of this section.

SEC. 1434. AUTHORITY TO LOAN PERSONNEL AND FACILITIES TO COMMUNITY DEVELOPMENT ORGANIZATIONS NEAR HANFORD RESERVATION

Contracts.
Energy.
Washington.

(a) **AUTHORITY TO LOAN PERSONNEL.**—(1) The Secretary of Energy shall allow each contractor and subcontractor of the Department of Energy carrying out operating, engineering, research and development, or construction management at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin counties, Washington. Any such loan shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at Hanford Reservation.

(2) A contractor shall continue to compensate any personnel loaned by the contractor under paragraph (1). Any such compensation shall be allowed as a cost for which the Department of Energy may reimburse the contractor under the contract.

(3) The Secretary of Energy may not obligate or expend more than \$500,000 in each of fiscal years 1989 and 1990 for loans of personnel under this section. The amount of such obligations or expenditures shall be measured by the cost of compensation paid to such personnel by the contractor and reimbursed by the Department of Energy.

(b) **AUTHORITY TO LOAN FACILITIES.**—The Secretary of Energy may loan facilities of the Federal Government being used by contractors of the Department of Energy at Hanford Reservation, Washington, to any community-based organization. However, any loan of a facility under this subsection may be made only if use of the facility by such an organization would not adversely affect Department of Energy programs, as determined by the Secretary.

(c) **DURATION OF PROGRAM.**—The authority to loan personnel and facilities under this section, and the loan of any personnel or facilities pursuant to such authority, shall terminate on September 30, 1990.

1435. NEW PRODUCTION REACTOR

Reports.

a) **RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.**—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendations for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

b) **REPORT CONTAINING INFORMATION PERTAINING TO NEW PRODUCTION REACTOR.**—At the same time the budget for fiscal year 1989 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor; and

(2) any recommendations for such additional action that the Secretary considers appropriate.

1436. NUCLEAR TEST BAN READINESS PROGRAM

42 USC 2121
note.

c) **FINDINGS.**—The Congress makes the following findings:

(1) On September 17, 1987, the United States and the Soviet Union announced that they would resume full-scale, stage-by-stage negotiations on issues relating to nuclear testing, including further intermediate limitations on nuclear testing leading to the ultimate objective of a comprehensive nuclear test ban.

(2) It was agreed that the first step in these negotiations would be to reach agreement on verification measures that will make possible the ratification of the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976.

(3) To achieve the agreement on verification measures, the United States and the Soviet Union have agreed to design and conduct a Joint Verification Experiment at the test sites of each country during the summer of 1988.

(4) At the Moscow summit in May 1988, President Reagan and General Secretary Gorbachev reaffirmed their commitment to negotiations on "effective verification measures which will make it possible to ratify the Threshold Test Ban Treaty of 1974 and Peaceful Nuclear Explosions Treaty of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process".

d) **ESTABLISHMENT OF PROGRAM.**—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Soviet Union.

Safety.

e) **PURPOSES OF PROGRAM.**—The purposes of the program under section (b) shall be the following:

Safety.

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify

Research and
development.

Public
information.
Classified
information.

potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(d) **CONDUCT OF PROGRAM.**—The Secretary of Energy shall carry out the program provided for in subsection (b). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national nuclear weapons laboratories.

(e) **ANNUAL REPORT.**—The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b).

PART D—DOE DEFENSE NUCLEAR FACILITIES SAFETY OVERSIGHT BOARD

SEC. 1441. ESTABLISHMENT OF DEFENSE NUCLEAR FACILITIES SAFETY BOARD

(a) **ESTABLISHMENT.**—(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new chapter:

“CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

42 USC 2286.

“SEC. 311. ESTABLISHMENT.

“(a) **ESTABLISHMENT.**—There is hereby established an independent establishment in the executive branch, to be known as the ‘Defense Nuclear Facilities Safety Board’ (hereafter in this chapter referred to as the ‘Board’).

President of U.S.

“(b) **MEMBERSHIP.**—(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party.

“(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

“(3) No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy.

“(4) Not later than 180 days after the date of the enactment of this chapter, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations within that 90-day period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted.

President of U.S.
Reports.
42 USC 2286.

“(c) CHAIRMAN AND VICE CHAIRMAN.—(1) The President shall designate a Chairman and Vice Chairman of the Board from among members of the Board.

President of U.S.

“(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

“(A) the appointment and supervision of employees of the Board;

“(B) the organization of any administrative units established by the Board; and

“(C) the use and expenditure of funds.

“(3) The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

“(4) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

“(d) TERMS.—(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

“(2) Of the members first appointed—

“(A) one shall be appointed for a term of one year;

“(B) one shall be appointed for a term of two years;

“(C) one shall be appointed for a term of three years;

“(D) one shall be appointed for a term of four years; and

“(E) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

“(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of that member's term until a successor has taken office.

“(e) QUORUM.—Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

“SEC. 312. FUNCTIONS OF THE BOARD.

42 USC 2286a.

“The Board shall perform the following functions:

“(1) REVIEW AND EVALUATION OF STANDARDS.—The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to

the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

“(2) INVESTIGATIONS.—(A) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

“(B) The purpose of any Board investigation under subparagraph (A) shall be—

“(i) to determine whether the Secretary of Energy is adequately implementing the standards described in paragraph (1) of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at the facility;

“(ii) to ascertain information concerning the circumstances of such event or practice and its implications for such standards;

“(iii) to determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

“(iv) to provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

“(3) ANALYSIS OF DESIGN AND OPERATIONAL DATA.—The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility.

“(4) REVIEW OF FACILITY DESIGN AND CONSTRUCTION.—The Board shall review the design of a new Department of Energy defense nuclear facility before construction of such facility begins and shall recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Board shall periodically review and monitor the construction and shall submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety. An action of the Board, or a failure to act, under this paragraph may not delay or prevent the Secretary of Energy from carrying out the construction of such a facility.

“(5) RECOMMENDATIONS.—The Board shall make such recommendations to the Secretary of Energy with respect to Department of Energy defense nuclear facilities, including operations of such facilities, standards, and research needs, as the Board determines are necessary to ensure adequate protection of public health and safety. In making its recommendations the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"SEC. 313. POWERS OF BOARD.

42 USC 2286b.

"(a) **HEARINGS.**—(1) The Board or a member authorized by the Board may, for the purpose of carrying out this chapter, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman, any member, or any person as otherwise provided by law. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(C) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt of the court.

"(D) The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(E) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

"(b) **STAFF.**—The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) hire such staff as it considers necessary to perform the functions of the Board, but not more than the equivalent of 100 full-time employees; and

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable.

"(c) **REGULATIONS.**—The Board may prescribe regulations to carry out the responsibilities of the Board under this chapter.

"(d) **REPORTING REQUIREMENTS.**—The Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary. The information which the Board may require the Secretary of Energy to report under this subsection may include any information designated as classified information, or any information designated as safeguards information and protected from disclosure under section 147 or 148 of this Act.

"(e) **USE OF GOVERNMENT FACILITIES, ETC.**—The Board may, for the purpose of carrying out its responsibilities under this chapter, use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such depart-

Classified
information.

42 USC 2286b.

ment or agency and, in the case of a contractor, with the consent of the contractor.

“(f) ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board’s responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

“(g) ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to assist the Board in carrying out its responsibilities under this chapter.

“(h) RESIDENT INSPECTORS.—The Board may assign staff to be stationed at any Department of Energy defense nuclear facility to carry out the functions of the Board.

“(i) SPECIAL STUDIES.—The Board may conduct special studies pertaining to adequate protection of public health and safety at any Department of Energy defense nuclear facility.

“(j) EVALUATION OF INFORMATION.—The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

“(1) events or practices at any Department of Energy defense nuclear facility; or

“(2) suggestions for specific measures to improve the content of standards described in section 312(1), the implementation of such standards, or research relating to such standards at Department of Energy defense nuclear facilities.

42 USC 2286c.

“SEC. 314. RESPONSIBILITIES OF THE SECRETARY OF ENERGY.

Contracts.

“(a) COOPERATION.—The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor’s consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

“(b) ACCESS TO INFORMATION.—The Secretary of Energy may deny access to information provided to the Board to any person who—

“(1) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

“(2) does not need such access in connection with the duties of such person.

42 USC 2286d.

“SEC. 315. BOARD RECOMMENDATIONS.

Federal Register, publication.

“(a) PUBLIC AVAILABILITY AND COMMENT.—Subject to subsections (g) and (h) and after receipt by the Secretary of Energy of any recommendations from the Board under section 312, the Board promptly shall make such recommendations available to the public in the Department of Energy’s regional public reading rooms and shall publish in the Federal Register such recommendations and a

request for the submission to the Board of public comments on such recommendations. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

“(b) RESPONSE BY SECRETARY.—(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 312, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

“(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register.

Federal
Register,
publication.

“(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the Secretary's response.

“(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

“(c) PROVISION OF INFORMATION TO SECRETARY.—The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

“(d) FINAL DECISION.—If the Secretary of Energy, in a response under subsection (b)(1), rejects (in whole or part) any recommendation made by the Board under section 312, the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision on whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a written report containing that decision and reasoning.

Federal
Register,
publication.
Reports.

“(e) IMPLEMENTATION PLAN.—The Secretary of Energy shall prepare a plan for the implementation of each Board recommendation, or part of a recommendation, that is accepted by the Secretary in his final decision. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Secretary may have an additional 45 days to transmit the plan if the Secretary submits to the Board and to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a notification setting forth the reasons for the delay and describing the actions the Secretary is taking to prepare an implementation plan under this subsection. The Secretary may implement any such recommendation (or part of any such recommendation) before, on, or after the

date on which the Secretary transmits the implementation plan to the Board under this subsection.

Reports. “(f) IMPLEMENTATION.—(1) Subject to paragraph (2), not later than one year after the date on which the Secretary of Energy transmits an implementation plan with respect to a recommendation (or part thereof) under subsection (e), the Secretary shall carry out and complete the implementation plan. If complete implementation of the plan takes more than 1 year, the Secretary of Energy shall submit a report to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives setting forth the reasons for the delay and when implementation will be completed.

Reports. “(2) If the Secretary of Energy determines that the implementation of a Board recommendation (or part thereof) is impracticable because of budgetary considerations, or that the implementation would affect the Secretary’s ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President, to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives a report containing the recommendation and the Secretary’s determination.

Safety. “(g) IMMINENT OR SEVERE THREAT.—(1) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312 relates to an imminent or severe threat to public health and safety, the Board and the Secretary of Energy shall proceed under this subsection in lieu of subsections (a) through (d).

President of U.S. “(2) At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President and for information purposes to the Secretary of Defense. The Secretary of Energy shall submit his recommendation to the President. The President shall review the Secretary of Energy’s recommendation and shall make the decision concerning acceptance or rejection of the Board’s recommendation.

Public information. “(3) After receipt by the President of the recommendation from the Board under this subsection, the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives. The President shall promptly notify such committees and the Speaker of his decision and the reasons for that decision.

President of U.S. “(h) LIMITATION.—Notwithstanding any other provision of this section, the requirements to make information available to the public under this section—

“(1) shall not apply in the case of information that is classified; and

“(2) shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

42 USC 2286e.

“SEC. 316. REPORTS.

“(a) BOARD REPORT.—(1) The Board shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to

section 1105(a) of title 31, United States Code, a written report turning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue public unclassified reports on matters within the Board's responsibilities. 42 USC 2286e.

The annual report under paragraph (1) shall include an assessment of—

“(A) the improvements in the safety of Department of Energy defense nuclear facilities during the period covered by the report;

“(B) the improvements in the safety of Department of Energy defense nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

“(C) the outstanding safety problems, if any, of Department of Energy defense nuclear facilities.

DOE REPORT.—The Secretary of Energy shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report turning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

317. JUDICIAL REVIEW.

42 USC 2286f.

Chapter 7 of title 5, United States Code, shall apply to the activities of the Board under this chapter.

318. DEFINITION.

42 USC 2286g.

As used in this chapter, the term ‘Department of Energy defense nuclear facility’ means any of the following:

“(1) A production facility or utilization facility (as defined in section 11 of this Act) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

“(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

“(B) any facility or activity involved with the assembly or testing of nuclear explosives or with the transportation of nuclear explosives or nuclear material; or

“(C) any facility that does not conduct atomic energy defense activities.

“(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

319. CONTRACT AUTHORITY SUBJECT TO APPROPRIATIONS.

42 USC 2286h.

The authority of the Board to enter into contracts under this chapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such use.

42 USC 2286i.

"SEC. 320. ANNUAL AUTHORIZATION OF APPROPRIATIONS.

"Authorizations of appropriations for the Board for fiscal years beginning after fiscal year 1989 shall be provided annually in authorization Acts."

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

"Sec. 311. Establishment.

"Sec. 312. Functions of the Board.

"Sec. 313. Powers of Board.

"Sec. 314. Responsibilities of the Secretary of Energy.

"Sec. 315. Board recommendations.

"Sec. 316. Reports.

"Sec. 317. Judicial review.

"Sec. 318. Definition.

"Sec. 319. Contract authority subject to appropriations.

"Sec. 320. Annual authorization of appropriations."

(b) **SALARY FOR BOARD MEMBERS AT EXECUTIVE SCHEDULE LEVEL III.**—Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Facilities Safety Board."

42 USC 2286e
note.

(c) **REQUIREMENTS FOR FIRST ANNUAL REPORT.**—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of "Department of Energy defense nuclear facility" in section 318(1)(C) of such Act (hereafter in this subsection referred to as "non-defense nuclear facilities") should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alternative mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board's responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

(d) **REQUIREMENTS FOR FIFTH ANNUAL REPORT.**—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 1442. TRANSFER

The Secretary of Energy, to the extent provided in appropriations Acts, shall transfer to the Defense Nuclear Facilities Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 1441) from sums available for obligation for national security programs such sums as may be necessary, as determined by such Board, for the operation of the Board during fiscal year 1989, but in no case may more than \$7,000,000 be transferred for such purpose. Sums transferred shall be available to such Board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 1441) and shall remain available until expended.

TITLE XV—NATIONAL DEFENSE STOCKPILE

SEC. 1501. AUTHORIZED DISPOSALS

50 USC 98d note.

(a) AUTHORITY.—Notwithstanding section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)) but subject to subsection (c), the President may during fiscal year 1989 dispose of materials in the National Defense Stockpile in accordance with this section. The value of the materials disposed of may not exceed \$80,000,000 and may only be made as specified in subsection (b).
(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal pursuant to the authority in subsection (a) shall be made from materials in the National Defense Stockpile previously authorized for disposal by law and from the following materials in the National Defense Stockpile, such materials having been determined to be excess to stockpile requirements:

Material	Quantities
asbestos, chrysotile	2,100 short tons
asbestos, crocidolite	36 short tons
celestite	13,500 short dry tons
zinc	772,000 pounds
cyanite	1,200 short dry tons
manganese dioxide, battery grade, natural ore	65,000 short dry tons
mercury	7,500 flasks
mica, muscovite block (S&L)	181,000 pounds
mica, muscovite splittings	750,000 pounds
mica, phlogopite splittings	589,000 pounds
quartz	1,249,000 pounds
silicon Carbide	44,000 short tons
calc, block and lump	990 short tons
calc, ground	1,100 short tons
thorium nitrate	6,520,000 pounds
tin	5,000 metric tons
tungsten ores and concentrates	1,000,000 pounds
extractable tannin chestnut	3,500 long tons
extractable tannin quebracho	77,000 long tons.

(c) DISPOSALS DURING FISCAL YEAR 1989.—The President may dispose of materials under this section during fiscal year 1989 only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount expended from the National Defense Stockpile Transaction Fund during fiscal year 1989 for purposes authorized under section 9(b)(2) of such Act.

SEC. 1502. AUTHORIZATION OF ACQUISITIONS

President of U.S.

(a) **ACQUISITIONS.**—During fiscal year 1989, the President shall obligate \$180,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) The upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

(4) Other authorized uses of such funds under section 9(b)(2) of such Act (50 U.S.C. 98h(b)(2)).

Reports.

(b) **NEW UPGRADE PROGRAMS.**—Of the amount specified in subsection (a), at least \$20,000,000 shall be obligated to initiate new programs for upgrading stockpile materials. The Stockpile Manager shall submit to Congress by October 1, 1988, a report containing a plan for the use of such \$20,000,000 for upgrading stockpile materials.

SEC. 1503. TECHNICAL AND CLARIFYING AMENDMENTS

(a) **SEMI-ANNUAL REPORT.**—Section 11(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(a)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

“(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

“(4) information with respect to the research and development activities conducted under sections 2 and 8;”.

(b) **ANNUAL MATERIALS PLAN.**—Section 11(b) of such Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out “such fiscal year” and inserting in lieu thereof “the next fiscal year”; and

(2) in the second sentence, by striking out “planned” and all that follows through “critical materials” and inserting in lieu thereof “all planned expenditures from the National Defense Stockpile Transaction Fund”; and

(3) by adding at the end the following new sentence: “Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.”.

TITLE XVI—CIVIL DEFENSE**C. 1601. AUTHORIZATION OF APPROPRIATION**

There is hereby authorized to be appropriated \$147,893,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

**DIVISION B—MILITARY CONSTRUCTION
AUTHORIZATIONS**

Military
Construction
Authorization
Act, 1989.

C. 2001. SHORT TITLE.

This division may be cited as the “Military Construction Authorization Act, 1989”.

TITLE XXI—ARMY**C. 2101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION
PROJECTS**

(a) **INSIDE THE UNITED STATES.**—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, \$6,000,000.
Fort McClellan, \$7,900,000.
Redstone Arsenal, \$14,800,000.
Fort Rucker, \$2,110,000.

ALASKA

Fort Wainwright, \$29,740,000.
Fort Richardson, \$6,250,000.

ARIZONA

Fort Huachuca, \$1,200,000.

ARKANSAS

Pine Bluff Arsenal, \$7,500,000.

CALIFORNIA

Fort Ord, \$13,050,000.
Sierra Army Depot, \$380,000.

COLORADO

Pueblo Army Depot, \$3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, \$1,600,000.

GEORGIA

Fort Benning, \$24,350,000.

HAWAII

Fort Shafter, \$7,200,000.

Schofield Barracks, \$8,500,000.

ILLINOIS

Rock Island Arsenal, \$10,980,000.

Savanna Army Depot, \$2,270,000.

Fort Sheridan, \$3,280,000.

KENTUCKY

Fort Campbell, \$20,500,000.

Lexington-Bluegrass Depot, \$770,000.

MARYLAND

Aberdeen Proving Ground, \$17,000,000.

Fort Detrick, \$6,500,000.

Fort Ritchie, \$9,100,000.

NEW JERSEY

Fort Dix, \$6,200,000.

NEW YORK

United States Military Academy, West Point, \$11,150,000.

NORTH CAROLINA

Fort Bragg, \$36,602,000.

OKLAHOMA

Fort Sill, \$3,700,000.

OREGON

Umatilla Army Depot, \$3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, \$1,900,000.

TEXAS

Fort Bliss, \$3,800,000.

Corpus Christi Army Depot, \$7,400,000.

Fort Hood, \$15,900,000.

Red River Army Depot, \$88,400,000.

Fort Sam Houston, \$3,250,000.

UTAH

Dugway Proving Ground, \$12,800,000.

Tooele Army Depot, \$92,300,000.

VIRGINIA

Fort A.P. Hill, \$9,900,000.

Fort Eustis, \$5,000,000.
Fort Lee, \$4,800,000.
Fort Pickett, \$4,000,000.
Vint Hill Farms Station, \$800,000.

WASHINGTON

Fort Lewis, \$19,800,000.

WISCONSIN

Fort McCoy, \$2,100,000.

VARIOUS LOCATIONS

Classified Locations, \$3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, \$15,000,000.
Friedberg, \$1,300,000.
Giessen, \$6,300,000.
Grafenwoehr Training Area, \$7,000,000.
Hohenfels Training Area, \$36,960,000.
Karlsruhe, \$2,550,000.
Mainz, \$19,550,000.
Mannheim, \$14,400,000.
Rheinberg, \$12,400,000.
Schweinfurt, \$9,700,000.
Stuttgart, \$3,350,000.
Vilseck, \$44,600,000.
Wiesbaden, \$13,900,000.
Worms, \$1,300,000.
Wuerzburg, \$33,650,000.
Various Locations, \$18,000,000.

HONDURAS

Site 5, \$3,050,000.

ITALY

Various Locations, \$1,250,000.

JAPAN

Various Locations, \$7,900,000.
Various Locations, \$5,300,000.

KOREA

Camp Casey, \$3,700,000.
Camp Gary Owen, \$1,150,000.
Camp Greaves, \$1,540,000.
Camp Hovey, \$3,200,000.
Camp Kittyhawk, \$1,350,000.
Camp Libby, \$1,150,000.

Camp Page, \$670,000.
 Camp Sears, \$1,100,000.
 Camp Stanley, \$1,200,000.
 Camp Stanton, \$1,400,000.
 K-16 Army Airfield, \$670,000.
 Taegu, \$990,000.
 ~ Yongsan, \$1,400,000.
 Various Locations, \$6,200,000.
 Various Locations, \$9,200,000.

KWAJALEIN

Kwajalein, \$15,490,000.

VARIOUS LOCATIONS

Various Locations, \$9,750,000.

SEC. 2102. FAMILY HOUSING

(a) **CONSTRUCTION AND ACQUISITION.**—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, \$27,000,000.

Fort Irwin, California, two hundred and sixty-three units, \$24,000,000.

Helemano, Hawaii, one hundred units, \$11,400,000.

Schofield Barracks, Hawaii, forty units, \$4,450,000.

Fort Leavenworth, Kansas, two hundred and seventy-two units, \$20,000,000.

Fort Drum, New York, one hundred units, \$10,000,000.

Fort Bliss, Texas, one hundred and eight units, \$9,100,000.

Augsburg, Germany, thirty-four units, as described in section 2103(b).

Hohenfels, Germany, eighty-eight units, \$8,400,000.

(b) **PLANNING AND DESIGN.**—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$10,628,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) **IN GENERAL.**—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), improve existing military family housing units in an amount not to exceed \$72,300,000.

(b) **WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.**—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Pearl Harbor, Hawaii, eight units, \$550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 2102(a), \$3,360,000.

Taegu, Korea, ninety-six units, \$4,450,000.

EC. 2104. DEFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, the amount of \$1,000,000.

EC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$2,417,701,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$463,182,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$299,620,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, \$1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$98,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, \$197,278,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$1,340,093,000, of which not more than \$52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, \$2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) \$78,000,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) **EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.**—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of \$660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of \$660,000 at Perivolaki, Greece.

(3) Barracks with dining facility in the amount of \$11,400,000 at Presidio of San Francisco, California.

(b) **EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.**—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of \$470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of \$2,850,000 at Nuernberg, Germany.

(3) Flight simulator building in the amount of \$2,900,000 at Wiesbaden, Germany.

(4) Air conditioning upgrade in the amount of \$5,900,000 at Schofield Barracks, Hawaii.

(5) Child care center in the amount of \$1,350,000 at Camp Darby, Italy.

(6) Dining facility modernization in the amount of \$4,350,000 at Fort Leavenworth, Kansas.

(7) Family housing, new construction, 6 units, in the amount of \$596,000 at Fort Myer, Virginia.

(c) **EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.**—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Primary water supply connection in the amount of \$2,150,000 at Fort Riley, Kansas.

(2) Material test facility in the amount of \$9,700,000 at Dugway Proving Ground, Utah.

(3) Barracks modernization in the amount of \$3,700,000 at foreign various location 276.

- (4) Dining facility in the amount of \$2,100,000 at Giessen, Germany.
- (5) Aircraft maintenance hangar in the amount of \$7,100,000 at Hanau, Germany.
- (6) Seventy manufactured home spaces in the amount of \$1,100,000 at Aberdeen Proving Ground, Maryland.
- (7) Family housing, new construction, 40 units in the amount of \$4,100,000 at Crailsheim, Germany.

TITLE XXII—NAVY

C. 2201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

a) **INSIDE THE UNITED STATES.**—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, \$19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, 000,000.

Naval Air Station, Adak, \$29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, \$11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, 630,000.

Marine Corps Air Station, Camp Pendleton, \$9,450,000.

Marine Corps Air Station, El Toro, \$3,970,000.

Marine Corps Air Station, Tustin, \$10,990,000.

Marine Corps Base, Camp Pendleton, \$64,460,000.

Marine Corps Logistics Base, Barstow, \$1,190,000.

Mountain Warfare Training Center, Bridgeport, \$3,200,000.

Naval Air Station, Moffett Field, \$650,000.

Naval Air Station, North Island, \$6,150,000.

Naval Amphibious Base, Coronado, \$870,000.

Naval Amphibious School, San Diego, \$10,100,000.

Naval Aviation Depot, Alameda, \$8,290,000.

Naval Aviation Depot, North Island, \$2,110,000.

Naval Construction Battalion Center, Port Hueneme, \$7,000,000.

Naval Construction Training Center, Port Hueneme, \$10,080,000.

Naval Hospital, Lemoore, \$2,160,000.

Naval Ocean Systems Center, San Diego, \$8,660,000.

Naval Post Graduate School, Monterey, \$3,140,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, 20,000.

Naval Security Group Detachment, San Diego, \$1,950,000.

Naval Shipyard, Mare Island, \$6,450,000.

Naval Space Surveillance Field Station, San Diego, \$3,760,000.

Naval Station, Treasure Island, San Francisco, \$5,000,000.
 Naval Submarine Base, San Diego, \$3,150,000.
 Naval Supply Center, Oakland, \$1,550,000.
 Naval Supply Center, San Diego Annex, North Island, \$1,695,000.
 Naval Training Center, San Diego, \$7,980,000.
 Naval Weapons Center, China Lake, \$12,260,000.
 Naval Weapons Station, Seal Beach, \$13,890,000.
 Navy Public Works Center, San Diego, \$500,000.
 Navy Public Works Center, San Francisco, \$15,810,000.
 Pacific Missile Test Center, Point Mugu, \$20,470,000.
 Personnel Support Activity, San Diego, \$1,180,000.
 Shore Intermediate Maintenance Activity, San Diego, \$10,720,000.
 Submarine Training Facility, San Diego, \$10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, \$1,170,000.
 Naval Submarine Base, New London, \$6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, \$38,100,000.
 Naval Research Laboratory, Washington, \$19,800,000.

FLORIDA

Naval Air Station, Cecil Field, \$340,000.
 Naval Air Station, Jacksonville, \$8,810,000.
 Naval Air Station, Key West, \$850,000.
 Naval Air Station, Pensacola, \$25,600,000.
 Naval Aviation Depot, Jacksonville, \$14,180,000.
 Naval Hospital, Pensacola, \$2,250,000.
 Naval Legal Service Office, Mayport, \$1,450,000.
 Naval Station, Mayport, \$3,060,000.
 Naval Supply Center, Pensacola, \$2,640,000.
 Naval Technical Training Center, Pensacola, \$2,840,000.
 Naval Training Center, Orlando, \$23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, \$5,740,000.
 Naval Submarine Base, Kings Bay, \$56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, \$24,270,000.
 Naval Legal Service Office, Pearl Harbor, \$2,380,000.
 Naval Station, Pearl Harbor, \$3,370,000.
 Naval Submarine Base, Pearl Harbor, \$11,250,000.
 Naval Submarine Training Center, Pacific, Pearl Harbor,
 \$1,780,000.
 Naval Supply Center, Pearl Harbor, \$8,350,000.
 Navy Public Works Center, Pearl Harbor, \$3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, \$3,440,000.
 Naval Public Works Center, Great Lakes, \$1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, \$19,000,000.

LOUISIANA

Naval Station, Lake Charles, \$3,700,000.

MAINE

Naval Air Station, Brunswick, \$530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, \$1,860,000.

Naval Academy, Annapolis, \$540,000.

Naval Air Test Center, Patuxent River, \$1,250,000.

Naval Explosive Ordnance Disposal Technology Center, Indian Head, \$7,380,000.

Naval Intelligence Command Headquarters, Suitland, \$114,000,000.

Naval Medical Data Services Center, Bethesda, \$5,930,000.

Naval Ordnance Station, Indian Head, \$1,270,000.

Naval Surface Warfare Center Detachment, White Oak, \$2,540,000.

MISSISSIPPI

Naval Air Station, Meridian, \$3,100,000.

Naval Construction Training Center, Gulfport, \$4,070,000.

Naval Station, Pascagoula, \$25,700,000.

Supervisor of Shipbuilding, Pascagoula, \$6,000,000.

NEVADA

Naval Air Station, Fallon, \$9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, \$30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, \$8,090,000.

NEW YORK

Naval Station, New York, \$23,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, \$32,380,000.

Marine Corps Air Station, New River, \$8,400,000.

Marine Corps Base, Camp Lejeune, \$23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, \$38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, \$1,270,000.
Naval Shipyard, Philadelphia, \$10,300,000.
Navy Aviation Supply Office, Philadelphia, \$1,400,000.
Navy Ships Parts Control Center, Mechanicsburg, \$2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, \$11,560,000.
Naval Justice School, Newport, \$2,060,000.
Surface Warfare Officers School Command, Newport, \$4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, \$2,260,000.
Naval Shipyard, Charleston, \$640,000.
Naval Supply Center, Charleston, \$1,090,000.
Naval Weapons Station, Charleston, \$22,250,000.

TENNESSEE

Naval Air Station, Memphis, \$10,090,000.

TEXAS

Naval Station, Galveston, \$8,110,000.
Naval Station, Ingleside, \$31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, \$1,700,000.
Fleet Combat Training Center, Atlantic, Dam Neck, \$4,700,000.
Marine Corps Combat Development Command, Quantico, \$14,290,000.
Marine Corps Detachment, Camp Elmore, \$1,690,000.
Marine Environmental Systems Facility, Dam Neck, \$5,000,000.
Naval Air Station, Oceana, \$2,690,000.
Naval Amphibious Base, Little Creek, \$8,270,000.
Naval Amphibious School, Little Creek, \$640,000.
Naval Aviation Depot, Norfolk, \$8,950,000.
Naval Guided Missiles School, Dam Neck, \$4,450,000.
Naval Legal Service Office, Norfolk, \$1,080,000.
Naval Medical Clinic, Norfolk, \$2,470,000.
Naval Ophthalmic Support and Training Activity, Yorktown, \$1,970,000.
Naval Security Group Activity, Northwest, Chesapeake, \$5,400,000.
Naval Supply Center, Norfolk, \$6,660,000.
Naval Supply Center, Williamsburg, \$3,300,000.
Naval Surface Warfare Center, Dahlgren, \$25,442,000.
Naval Weapons Station, Yorktown, \$12,360,000.
Navy Public Works Center, Norfolk, \$4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, \$11,010,000.
Naval Station, Everett, \$38,400,000.
Naval Supply Center, Bremerton, \$5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, \$15,060,000.
Frigate Refit Facility, Bangor, \$990,000.

VARIOUS LOCATIONS

and Acquisition, \$36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, \$6,470,000.

GUAM

Fleet Surveillance Support Group, \$20,972,000.

Naval Security Group Detachment, \$400,000.

Naval Supply Depot, \$7,660,000.

Navy Public Works Center, \$6,720,000.

ICELAND

Naval Air Station, Keflavik, \$12,000,000.

ITALY

Naval Air Station, Sigonella, \$7,950,000.

Naval Support Activity, Naples, \$4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, \$3,280,000.

Marine Corps Base, Camp Butler, Okinawa, \$2,840,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, \$28,340,000.

SPAIN

Naval Communication Station, Rota, \$400,000.

VARIOUS LOCATIONS

Classified Location, \$4,990,000.

Host Nation Infrastructure Support, \$500,000.

2202. FAMILY HOUSING

(b) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, \$9,470,000.

Marine Corps Air Station, El Toro, California, one hundred units and eighty mobile home spaces, \$10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, \$28,510,000.

Naval Station, Long Beach, California, three hundred units, \$26,110,000.

Naval Public Works Center, San Diego, California, three hundred and fifty-six units, \$31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, \$35,736,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, \$19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, \$23,000,000.

Naval Station, New York, New York, one hundred and fifty units, \$14,900,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, \$330,000.

(b) **PLANNING AND DESIGN.**—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2205(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed \$2,315,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) **IN GENERAL.**—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), improve existing military family housing units in an amount not to exceed \$61,589,000.

(b) **WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.**—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Naval Public Works Center, San Diego, California, six units, \$284,400.

Naval Public Works Center, Pensacola, Florida, one unit, \$34,900.

Naval Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, \$17,214,000.

Naval Public Works Center, Great Lakes, Illinois, one hundred and two units, \$6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, \$2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, \$920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, \$8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, \$94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, \$11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, \$5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, \$632,600.

Navy Public Works Center, Guam, two hundred and twelve units, \$18,473,800.

SEC. 2204. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, \$2,900,000.

Navy Public Works Center, San Diego, California, \$719,000.

Navy Public Works Center, San Francisco, California, \$800,000.

Naval Station, Everett, Washington, \$4,400,000.

Naval Submarine Base, Kings Bay, Georgia, \$3,000,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$2,369,875,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$1,296,450,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$101,272,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, \$11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$250,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), \$554,988,000 of which not more than \$18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than \$23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) \$55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

(c) **RESTRICTION ON CERTAIN FUNDING.**—None of the funds appropriated pursuant to subsection (a)(1) may be obligated for use or expended at Hunters Point Annex, Naval Station, Treasure Island, San Francisco, California, until the Secretary of the Navy has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a description of the activities planned by the Department of the Navy at such location during fiscal years 1989 through 1993, and (2) a statement explaining the environmental impact of such activities, especially with respect to the planned porting of ships and the development of the land at such location during such fiscal years.

SEC. 2206. ACQUISITION OF HOUSING AT CERTAIN NAVAL AIR STATIONS

(a) **AUTHORITY TO ACQUIRE.**—(1) The Secretary of the Navy may, using funds appropriated pursuant to section 2205(a)(6)(A), acquire all right, title, and interest in and to 264 family housing units situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act.

Reports.

(2) The Secretary of the Navy may, using funds that remain available from savings realized in carrying out military family housing projects of the Department of the Navy during any fiscal year before fiscal year 1990, acquire all right, title, and interest in and to 72 family housing units at Sunnyvale, California, near the Naval Air Station, Moffett Field, which were constructed in 1952 with financing provided under title VIII of the National Housing Act, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

(3) The Secretary may also acquire the leasehold interests in the housing units referred to in paragraphs (1) and (2) which are held in private ownership.

(4) The amount paid by the Secretary for such units and leasehold interests may not exceed an amount equal to the fair market value of such units and interests.

(5) The authority to acquire the housing units referred to in paragraphs (1) and (2) shall include the authority to acquire other real property improvements related to such units.

(b) **OCCUPANCY CHARGES.**—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. Such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) **EXPIRATION OF ACQUISITION AUTHORITY.**—The authority under this section for the Secretary to acquire the leasehold interests referred to in subsection (a) shall expire on October 1, 1994.

TITLE XXIII—AIR FORCE**2301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS**

(a) **INSIDE THE UNITED STATES.**—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Hunter Air Force Base, \$8,150,000.
Maxwell Air Force Base, \$17,800,000.

ALASKA

Elmendorf Air Force Base, \$7,650,000.
Eglin Air Force Base, \$20,540,000.
King Salmon Airport, \$2,850,000.
Thomson Air Force Base, \$14,860,000.

ARIZONA

Davis-Monthan Air Force Base, \$980,000.
Luke Air Force Base, \$4,550,000.
Williams Air Force Base, \$11,130,000.

ARKANSAS

Lytle Air Force Base, \$2,150,000.
Little Rock Air Force Base, \$4,550,000.

CALIFORNIA

Beale Air Force Base, \$8,900,000.
Castle Air Force Base, \$20,400,000.
Edwards Air Force Base, \$5,200,000.
George Air Force Base, \$23,550,000.
March Air Force Base, \$4,900,000.
Mather Air Force Base, \$2,740,000.
McClellan Air Force Base, \$3,080,000.
Muro Air Force Base, \$4,300,000.
Naval Air Station, \$10,400,000.
Van Nuys Air Force Base, \$8,550,000.

COLORADO

Rockwell Air National Guard Base, \$25,800,000.
Rocky Mountain Complex, \$6,500,000.
Stewart Air Force Base, \$12,000,000.
Peterson Air Force Base, \$13,300,000.
United States Air Force Academy, \$10,240,000.

DELAWARE

Wilmington Air Force Base, \$1,000,000.

FLORIDA

MacDill Air Force Base, \$3,700,000.

Cape Canaveral Air Force Station, \$19,380,000.
Eglin Air Force Base, \$11,020,000.
Eglin Air Force Base, Auxiliary Field 9, \$27,400,000.
Homestead Air Force Base, \$6,200,000.
MacDill Air Force Base, \$4,580,000.
Patrick Air Force Base, \$1,126,000.
Tyndall Air Force Base, \$6,000,000.

GEORGIA

Moody Air Force Base, \$800,000.
Robins Air Force Base, \$31,500,000.

HAWAII

Hickam Air Force Base, \$4,250,000.

IDAHO

Mountain Home Air Force Base, \$1,400,000.

ILLINOIS

Chanute Air Force Base, \$6,500,000.
Scott Air Force Base, \$14,500,000.

INDIANA

Grissom Air Force Base, \$1,850,000.

KANSAS

McConnell Air Force Base, \$680,000.

LOUISIANA

Barksdale Air Force Base, \$7,300,000.
England Air Force Base, \$3,100,000.

MAINE

Loring Air Force Base, \$3,000,000.

MARYLAND

Andrews Air Force Base, \$2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, \$12,400,000.

MICHIGAN

Wurtsmith Air Force Base, \$10,690,000.

MISSISSIPPI

Columbus Air Force Base, \$2,950,000.
Keesler Air Force Base, \$4,550,000.

MISSOURI

Whiteman Air Force Base, \$64,300,000.

MONTANA

Malmstrom Air Force Base, \$19,470,000.

NEBRASKA

Offutt Air Force Base, \$2,450,000.

NEVADA

Indian Springs, \$3,150,000.

Nellis Air Force Base, \$6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, \$4,500,000.

Base Air Force Base, \$10,950,000.

NEW JERSEY

Guire Air Force Base, \$3,550,000.

NEW MEXICO

annon Air Force Base, \$4,100,000.

lloman Air Force Base, \$2,900,000.

otland Air Force Base, \$13,000,000.

NEW YORK

ffiss Air Force Base, \$700,000.

NORTH CAROLINA

rmour Johnson Air Force Base, \$3,050,000.

NORTH DAKOTA

and Forks Air Force Base, \$13,290,000.

not Air Force Base, \$6,250,000.

OHIO

ight-Patterson Air Force Base, \$11,455,000.

OKLAHOMA

us Air Force Base, \$2,300,000.

aker Air Force Base, \$12,650,000.

SOUTH CAROLINA

arleston Air Force Base, \$5,000,000.

SOUTH DAKOTA

sworth Air Force Base, \$8,650,000.

TENNESSEE

Arnold Engineering Development Center, \$213,800,000.

TEXAS

Bergstrom Air Force Base, \$2,800,000.
 Brooks Air Force Base, \$2,750,000.
 Carswell Air Force Base, \$3,500,000.
 Dyess Air Force Base, \$3,470,000.
 Goodfellow Air Force Base, \$2,350,000.
 Kelly Air Force Base, \$29,300,000.
 Lackland Air Force Base, \$14,039,000.
 Laughlin Air Force Base, \$1,910,000.
 Randolph Air Force Base, \$6,150,000.
 Reese Air Force Base, \$990,000.
 Sheppard Air Force Base, \$10,700,000.

UTAH

Hill Air Force Base, \$10,740,000.

WASHINGTON

Fairchild Air Force Base, \$17,580,000.
 McChord Air Force Base, \$13,100,000.

WYOMING

F.E. Warren Air Force Base, \$6,000,000.

VARIOUS LOCATIONS

Base 80, \$987,000.
 Base 81, \$2,800,000.
 Classified, \$4,000,000.

(b) **OUTSIDE THE UNITED STATES.**—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, \$1,900,000.

CANADA

Forward Operation Locations, \$600,000.

GERMANY

Bitburg Air Base, \$1,060,000.
 Einsiedlerhof Air Base, \$1,500,000.
 Hahn Air Base, \$16,650,000.
 Hessich-Oldendorf Air Station, \$740,000.
 Norvenich Air Base, \$2,300,000.
 Pruem Air Station, \$620,000.
 Ramstein Air Base, \$6,000,000.
 Rhein-Main Air Base, \$5,000,000.
 Sembach Air Base, \$3,550,000.
 Spangdahlem Air Base, \$10,270,000.

enigerath Air Base, \$1,700,000.
eibrucken Air Base, \$1,300,000.

GREENLAND

ndrestrom Air Base, \$5,950,000.
ule Air Base, \$1,830,000.

GUAM

nderson Air Force Base, \$900,000.

ICELAND

val Air Station, Keflavik, \$1,100,000.

ITALY

iano Air Base, \$7,600,000.

JAPAN

dena Air Base, \$1,850,000.
sawa Air Base, \$4,550,000.
kota Air Base, \$500,000.

KOREA

mp Humphreys, \$3,350,000.
nsan Air Base, \$17,330,000.
an Air Base, \$10,750,000.

NETHERLANDS

mp New Amsterdam, \$10,300,000.
lkel Air Base, \$2,300,000.

OMAN

sirah Air Base, \$2,800,000.
eb Air Base, \$7,100,000.

PANAMA

ward Air Force Base, \$2,600,000.

PHILIPPINES

rk Air Base, \$28,940,000.

PORTUGAL

es Field, \$4,850,000.

TURKEY

irlik Air Base, \$9,590,000.
incliik Air Station, \$1,500,000.

UNITED KINGDOM

F Alconbury, \$2,650,000.
F Bentwaters, \$5,430,000.
F Feltwell, \$500,000.
F Lakenheath, \$10,170,000.

RAF Mildenhall, \$7,150,000.
RAF Upper Heyford, \$3,830,000.
RAF Welford, \$3,720,000.

VARIOUS LOCATIONS

Base 30, \$3,850,000.
Base 79, \$1,900,000.
Base 82, \$2,800,000.
Classified Locations, \$16,473,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of \$19,920,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$7,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), improve existing military family housing units in an amount not to exceed \$153,765,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Gunter Air Force Station, Alabama, twenty-three units, \$1,136,000.

Maxwell Air Force Base, Alabama, fifty units, \$2,722,000.

Eielson Air Force Base, Alaska, ninety-six units, \$7,943,000.

Elmendorf Air Force Base, Alaska, forty-eight units, \$3,818,000.

Davis-Monthan Air Force Base, Arizona, one unit, \$60,000.

Luke Air Force Base, Arizona, one hundred and fifty-two units, \$5,975,000.

McClellan Air Force Base, California, thirty units, \$3,207,000.

Peterson Air Force Base, Colorado, one unit, \$74,000; eighty units, \$3,527,000.

Bolling Air Force Base, District of Columbia, one hundred and ten units, \$4,018,000.

Eglin Air Force Base, Florida, fifty units, \$2,138,000.

MacDill Air Force Base, Florida, four units, \$279,000.

Robins Air Force Base, Georgia, one hundred and sixty units, \$6,861,000.

Scott Air Force Base, Illinois, four units, \$184,000.

Grissom Air Force Base, Indiana, one hundred and eighty-six units, \$6,788,000.

Barksdale Air Force Base, Louisiana, two units, \$185,000; one hundred and fourteen units, \$6,200,000.

England Air Force Base, Louisiana, one hundred and six units, \$5,830,000.

Andrews Air Force Base, Maryland, five units, \$338,000.

Pease Air Force Base, New Hampshire, one unit, \$121,000.

McGuire Air Force Base, New Jersey, one hundred units, \$4,921,000.

Kirtland Air Force Base, New Mexico, four units, \$240,000; one hundred and fifteen units, \$4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, \$10,600,000.

Minot Air Force Base, North Dakota, one unit, \$65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, \$4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, \$7,869,000; sixteen units, \$600,000.

Dyess Air Force Base, Texas, one unit, \$64,000.

Kelly Air Force Base, Texas, one hundred and one units, \$3,381,000.

Randolph Air Force Base, Texas, two units, \$199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, \$6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, \$16,000,000; eight units, \$706,000; nine units, \$1,039,000.

Andersen Air Force Base, Guam, one unit, \$167,000; one hundred and twenty units, \$8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, \$8,707,000.

Yokota Air Base, Japan, eighty-one units, \$5,629,000.

Osan Air Base, Korea, ten units, \$447,000.

Clark Air Base, Philippines, eighty-two units, \$4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, \$1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, \$5,588,000.

2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of 43,981,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$855,877,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$229,353,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$180,685,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code),

\$741,766,000 of which not more than \$16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than \$74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) \$133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

(c) **RESTRICTION ON CERTAIN FUNDING.**—None of the funds appropriated pursuant to subsection (a)(2) may be obligated for use or expended in Panama until the Secretary of Defense transmits to the Committees on Armed Services of the Senate and the House of Representatives a copy of the plans of the activities to be carried out by the Department of Defense in Panama during the five-year period beginning on the date of the enactment of this Act.

SEC. 2305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator facility, in the amount of \$890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of \$1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of \$660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of \$230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of \$3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of \$3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of \$3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, \$26,414,000.

(9) La Junta, Colorado, forty units of family housing \$4,000,000.

(10) GEODSS Site 5, Portugal, Composite Support Facility in the amount of \$2,250,000 and Spacetrack Observation Facility in the amount of \$12,400,000.

TITLE XXIV—DEFENSE AGENCIES**401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS**

INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Langston Service Center, Virginia, \$742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, \$19,000,000.
 Defense Depot, Tracy, California, \$590,000.
 Defense Fuel Support, Pearl City, Hawaii, \$1,900,000.
 Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, \$1,600,000.
 Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, \$430,000.
 Defense Depot, Mechanicsburg, Pennsylvania, \$460,000.
 Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, \$350,000.
 Defense Depot, Ogden, Utah, \$6,000,000.
 Pamunkey Annex, Virginia, \$450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, \$1,000,000.

DEFENSE MEDICAL FACILITIES OFFICE

Marine Corps Base, Camp Pendleton, California, \$5,000,000.
 March Air Force Base, California, \$3,000,000.
 Naval Station, North Island, California, \$7,200,000.
 Naval Station, Treasure Island, California, \$11,000,000.
 Maxwell Air Force Base, Florida, \$800,000.
 Fort Benning, Georgia, \$700,000.
 Fort Bragg Air Force Base, Georgia, \$3,600,000.
 Fort Leonard Wood, Missouri, \$1,450,000.
 Fort Bliss Air Force Base, New Mexico, \$2,550,000.
 Fort Sill, Oklahoma, \$54,000,000.
 Marine Corps Recruit Depot, Parris Island, South Carolina, \$1,000,000.
 Fort Worth Air Force Base, Texas, \$6,100,000.
 Fort Worth Air Force Base, Texas, \$950,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, \$28,000,000.

NATIONAL SECURITY AGENCY

Meade, Maryland, \$2,230,000.
 Classified Locations, \$20,000,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, \$3,000,000.
Classified Location, \$4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, \$65,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, \$785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, \$800,000.

Defense Reutilization and Marketing Office, Kaiserslautern, Germany, \$500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, \$4,200,000.

Geilenkirchen Air Base, Germany, \$450,000.

Hahn Air Base, Germany, \$18,500,000.

Patch Barracks, Germany, \$4,700,000.

Rhein-Main Air Base, Germany, \$14,200,000.

Smith Barracks, Germany, \$5,100,000.

Spangdahlem Air Base, Germany, \$1,250,000.

Wildflecken, Germany, \$4,800,000.

Camp Howze 2nd Infantry Division, Korea, \$780,000.

Seoul, Korea, \$55,000,000.

Taegu Air Base, Korea, \$4,400,000.

Royal Air Force, High Wycombe, United Kingdom, \$720,000.

Royal Air Force, Lakenheath, United Kingdom, \$41,000,000.

Base 54, \$12,800,000.

Classified Locations, \$19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, \$2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, \$8,151,000.

Bad Kissingen, Germany, \$1,620,000.

Baumholder, Germany, \$1,940,000.

Erlangen, Germany, \$3,890,000.

Gelnhausen, Germany, \$1,482,000.

Giessen, Germany, \$7,627,000.

Wildflecken, Germany, \$2,752,000.

Keflavik, Iceland, \$5,434,000.

Aviano, Italy, \$9,450,000.

Pusan, Korea, \$1,980,000.

Seoul, Korea, \$7,332,000.

Brunssum, the Netherlands, \$8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, \$9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, \$11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, \$16,000,000.

C. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed \$400,000.

Classified
information.

C. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), improve existing military family housing units in an amount not to exceed \$113,000.

C. 2404. AFCEM SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(2), contribute funds in the amount of \$863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

C. 2405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than \$10,000,000 appropriated for fiscal year 1987, not more than \$5,000,000 appropriated for fiscal year 1988, and not more than \$9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for conforming storage facilities.”.

C. 2406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of \$12,000,000.

C. 2407. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated in fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of \$711,550,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$236,311,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, \$23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, \$72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, \$12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, \$62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, \$9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, \$513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), \$20,187,000, of which not more than \$17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) **LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$27,000,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Fort Sill, Oklahoma); and

(3) \$27,500,000 (the balance of the amount authorized under section 2401(b) for the construction of a medical facility at Seoul, Korea).

(c) **RESTRICTION ON CERTAIN FUNDING.**—Of the amounts appropriated pursuant to this section or otherwise made available to the Department of Defense for fiscal year 1989, not more than \$65,000,000 may be obligated or expended for use in planning and construction of a National Test Facility for the Strategic Defense Initiative at Falcon Air Force Base, Colorado.

SEC. 2408. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1201) is amended by striking out “RAF Wethersfield, United Kingdom, \$740,000.” under the heading “DEFENSE MEDICAL FACILITIES OFFICE” and inserting in lieu thereof “Boscombe Downs, United Kingdom, \$740,000.”

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of \$7,600,000 at Scott Air Force Base, Illinois.

SEC. 2410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA, AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

Subject to section 2401, the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the construction of the military construction projects authorized by section 2401 at Reynolds Army Community Hospital, Fort Sill, Oklahoma, and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

Contracts.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE**SEC. 2501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS**

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of \$492,000,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES**SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS**

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

- (A) for the Army National Guard of the United States, \$203,859,000; and
- (B) for the Army Reserve, \$84,411,000.
- (2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$54,900,000.
- (3) For the Department of the Air Force—
 - (A) for the Air National Guard of the United States, \$154,758,000; and
 - (B) for the Air Force Reserve, \$63,600,000.

SEC. 2602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed, with funds remaining available as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987, an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of \$3,300,000, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary of the Air Force transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

Reports.

SEC. 2603. CONSTRUCTION OF REPLACEMENT FACILITIES AT O'HARE AIR RESERVE FORCES FACILITY, ILLINOIS

(a) **GENERAL RULE.**—(1) The Secretary of the Air Force may use funds received from the transaction described in paragraph (3) for the construction of reserve component facilities on land under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois.

(2) The Secretary may provide for the construction of such reserve component facilities with funds received from the transaction referred to in paragraph (1) or may permit the City of Chicago to construct such facilities and, upon completion of the construction, have the ownership of such facilities transferred to the United States.

Real property.
Public buildings
and grounds.

(3) The transaction referred to in paragraph (1) is an exchange of lands and facilities owned by the United States and under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois, for interests in lands owned by the City of Chicago, Illinois, at such airport. The market value of the interest in lands and the amount of funds received by the United States in such transaction shall be at least equal to the market value of the lands and facilities conveyed by the United States in such transaction.

(b) **ADDITIONAL USE OF FUNDS.**—The Secretary may also use the funds from the transaction referred to in subsection (a)(1) to meet expenses, other than construction expenses, incurred by the Secretary in connection with the construction of the facilities referred to in such subsection.

(c) **EXCESS FUNDS.**—Funds received from the transaction described in subsection (a)(3) and not expended for purposes specified in this section shall be paid into the miscellaneous receipts of the Treasury.

(d) **REPORTING REQUIREMENT.**—The Secretary shall transmit a report to the Committees on Armed Services of the Senate and the House of Representatives at least 21 days before taking any action under paragraph (1) or (2) of subsection (a) or under subsection (b).

report shall contain a description of the action which the Secretary plans to take under such paragraph or subsection.

ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interest of the United States with respect to any action carried out under this section.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later.

EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

2702. EFFECTIVE DATE

Except as otherwise specifically provided, this division shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

10 USC 2391
note.

TITLE XXVIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

2801. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out “20 years” and inserting in lieu thereof “32 years”.

2802. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out “36,000” and inserting in lieu thereof “38,000”.

2803. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out “\$100,000” each place it appears and inserting in lieu thereof “\$200,000”.

2804. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 2805. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) **MODIFICATION OF AUTHORITY.**—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

Grants.
Contracts.
State and local
governments.
Public
information.

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the encroachment of the civilian community is likely to impair the continued operational utility of the military installation."

(b) **CONDITION ON ASSISTANCE.**—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

Public
information.
Contracts.
Employment
and
unemployment.

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community."

PART B—MISCELLANEOUS

SEC. 2811. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) **IN GENERAL.**—Except as provided in subsection (b), no funds appropriated pursuant to authorizations made by this division may be obligated or expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant alien described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

Reports.

(b) **EXCEPTION.**—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may

make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the 21-day period beginning with the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) **EFFECTIVE DATE.**—The provisions of this section shall apply to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2812. BROOKE ARMY MEDICAL CENTER

(a) **INCREASE IN PROJECT AUTHORITY.**—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out “\$241,000,000” in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof “\$275,000,000”.

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by \$34,000,000.

(b) **CONFORMING AMENDMENT.**—Section 2403(a)(2) of such Act is amended by striking out “, but the” and all that follows through “beds”.

SEC. 2813. COMMUNITY PLANNING ASSISTANCE

(a) **ADDITIONAL AUTHORITY.**—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(1) Not to exceed \$350,000 for communities located near newly established light infantry division posts.

(2) Not to exceed \$250,000 for communities located near newly established Navy strategic dispersal program homeports.

(3) Not to exceed \$150,000 for communities located near Whiteman Air Force Base, Knob Noster, Missouri.

(b) **EXPIRATION OF AUTHORITY.**—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 2814. FORT DERUSSY, HAWAII

(a) **USE.**—The Secretary of the Army shall administer Fort DeRussy, Hawaii, as the primary rest and recreation area for members of the Armed Forces in the Pacific.

Recreation.

(b) **PROHIBITION.**—Notwithstanding any other provision of law, funds appropriated or otherwise available to the Department of Defense may not be used in any way, directly or indirectly, for the purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) **IMPLEMENTATION OF PLAN.**—(1) Section 2740(d) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4051), is amended—

(A) by striking out “PAYMENT OF EXCESS INTO TREASURY” in the subsection heading and inserting in lieu thereof “EXCESS AMOUNT”; and

(B) by striking out “shall deposit” and all that follows through the period and inserting in lieu thereof “may use such amount for the implementation of the plan established by the Secretary

of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any part of such amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.”.

(2) Section 2332(d) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), is amended—

(A) by striking out “PAYMENT OF EXCESS INTO TREASURY” in the subsection heading and inserting in lieu thereof “EXCESS AMOUNT”; and

(B) by striking out “shall deposit” and all that follows through the period and inserting in lieu thereof “may use such amount for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.”.

public buildings
and grounds.

SEC. 2815. WURTSMITH AIR FORCE BASE, MICHIGAN

The library building located on the Wurtsmith Air Force Base, Michigan, is hereby designated as the “General Earl T. O’Loughlin Library”. Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the “General Earl T. O’Loughlin Library”.

SEC. 2816. LOCATION OF HAZARDOUS WASTE STORAGE FACILITY AT PEARL HARBOR NAVAL SHIPYARD

The Secretary of the Navy may not construct a hazardous waste storage facility for the Pearl Harbor Naval Shipyard at a location closer than 600 feet to a public school.

SEC. 2817. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) IN GENERAL.—The Administrator of General Services, in coordination with the Secretary of the Navy, shall issue a solicitation for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) REPORT.—The Secretary, after consultation with the Administrator, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the proposals received in response to the solicitation issued pursuant to subsection (a). Such report shall include a comparative cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-purchase, and military construction, respectively. The report shall identify, and include recommendations for meeting, the current and long-term office and related space needs of the Navy within the National Capital Region.

(c) **DEADLINE FOR REPORT.**—The report required by subsection (b) shall be submitted not later than 90 days after the date established by the Administrator for receiving responses to the solicitation for proposals issued pursuant to subsection (a).

SEC. 2818. THIRD INFANTRY DIVISION MEMORIAL

Public buildings
and grounds.

(a) **IN GENERAL.**—The Society of the Third Infantry Division may establish, on grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the members of the “Rock of the Marne” of the Third Infantry Division, United States Army, who bravely served their country in World War I, World War II, and the Korean conflict.

(b) **ADMINISTRATIVE PROVISIONS.**—(1) The Secretary of the Army may select a suitable site on grounds in Arlington National Cemetery upon which may be established the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the construction of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial authorized under this section shall be the responsibility of the Secretary of the Army.

(c) **EXPIRATION OF AUTHORITY.**—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless—

(1) construction of the memorial authorized in subsection (a) is commenced within such period; and

(2) before construction of the memorial begins, the Society of the Third Infantry Division certifies to the Secretary of the Army the amount available for the construction of the memorial and the Secretary determines that such amount is sufficient to complete the memorial.

SEC. 2819. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

10 USC 2391
note.

(a) **ESTABLISHMENT OF COMMISSION.**—Within 30 days after the date of the enactment of this Act, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be composed of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services, and the General Services Administration.

(b) **REPORT REQUIREMENTS.**—The Commission shall, on a biannual basis—

(1) prepare a report listing active and nonactive military facilities that the Secretary of Defense has identified as subjects for closure, as being underutilized in whole or part, or as being excess to the needs of the Department of Defense;

(2) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as minimum security facilities for nonviolent prisoners;

Drugs and drug
abuse.

(3) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as drug treatment facilities for nonviolent drug abusers; and

(4) transmit a list of such facilities to the President and to the Congress.

(c) **DEADLINE FOR REPORTS.**—The first report required by subsection (b) shall be submitted to the President and Congress not later than October 1, 1988. Subsequent reports under such subsection shall be submitted not later than September 1 of every second year after submission of the first report through fiscal year 1996.

PART C—REAL PROPERTY TRANSACTIONS

SEC. 2821. LAND EXCHANGE, ALAMEDA COUNTY, CALIFORNIA

State and local
governments.

(a) **IN GENERAL.**—(1) Subject to subsections (b) through (d), the Secretary of the Army may convey to the County of Alameda, California, and to the City of Dublin, California, the real properties referred to in paragraph (2) in exchange for conveyance to the United States of approximately 445 acres of real property, together with improvements thereon, of the property described in paragraph (3).

(2) The properties authorized to be conveyed by the Secretary are as follows:

(A) Approximately 35 acres of real property, together with improvements thereon, at the Reserve Forces Training Center, County of Alameda, California, to the County of Alameda, California.

(B) Approximately 12 acres of real property, together with improvements thereon, at such center to the City of Dublin, California.

(3) The property to be conveyed to the United States is a parcel of land consisting of approximately 445 acres, together with improvements thereon, located in the County of Alameda, California, which is under the jurisdiction of the East Bay Regional Park District, County of Alameda, California, and which was conveyed to such district by the United States by a deed dated February 2, 1973.

(4) The instrument of conveyance conveying the property referred to in paragraph (3) to the United States may, at the option of the East Bay Regional Park District—

(A) include a right of reversion on behalf of such district in the event that the property conveyed to the United States is no longer needed by the Department of the Army (as determined by the Secretary of the Army); and

(B) reserve to such district an easement consisting of not more than 25 acres along the most eastern boundary of the property for use by such district as a part of the Regional Trail System of such district.

(b) **ADDITIONAL CONSIDERATION.**—If the fair market value of the properties conveyed by the United States pursuant to subsection (a) exceeds the fair market value of the property conveyed to the United States pursuant to such subsection, the County of Alameda, California, the City of Dublin, California, or the East Bay Regional Park District, as appropriate, shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed pursuant to this section (including the easement referred to in subsection (a)(4)) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the County of Alameda or the County of Dublin.

ADDITIONAL TERMS AND CONDITIONS.—The Secretary may prescribe such additional terms and conditions in connection with the conveyances made pursuant to this section as the Secretary considers appropriate to protect the interests of the United States.

2822. LAND CONVEYANCE, LOMPOC, CALIFORNIA

IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 2121).

USE OF PROPERTY.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used only for educational purposes or the purposes described in section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526), or both.

If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, and the City shall have the right of immediate entry thereon.

LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

OTHER TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

2823. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

Flood control.

IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as “county improvements”) on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately one and one-half acres located adjacent to the Marine Corps Air Station, Tustin, California.

The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California, as the Secretary and Orange County shall agree upon.

(3) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) **PAYMENT OF EXCESS INTO TREASURY.**—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) **LEGAL DESCRIPTION OF PROPERTY.**—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) **EXCHANGE AUTHORIZED.**—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) **LIMITATION ON VALUE OF PROPERTY EXCHANGED.**—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) **NOTICE TO COMMITTEES.**—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) **LEGAL DESCRIPTION OF PROPERTY.**—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND TRANSFER, WASHINGTON, DISTRICT OF COLUMBIA

(a) **IN GENERAL.**—The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy approximately 6 acres of real property (including Building 197 located thereon) located at a site referred to as the Southeast Federal Center near the Washington Navy Yard, Washington, D.C., and bounded on the east by Isaac Hull Avenue, on the north by

y Street, on the west by Buildings 116 and 118, and on the
by property owned by the Department of the Navy.

DESIGN OF BUILDING.—The Secretary of the Navy shall use not
than \$9,200,000 of the amount appropriated pursuant to sec-
205(a)(4) to initiate the redesign of Building 197 referred to in
ction (a).

826. LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

tion 809(c) of the Military Construction Authorization Act,
(Public Law 95-356; 92 Stat. 587), is amended by inserting
the period the following: "and a third parcel containing forty-
acres".

827. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

e Administrator of General Services shall transfer, without
eration, to the Secretary of the Navy such parcel of vacant
located at the Suitland Federal Center, Suitland, Maryland,
e Administrator, after consultation with the Secretary,
nines—

(1) to be excess to the present and anticipated future needs of
e General Services Administration at the Suitland Federal
center; and

(2) adequate to accommodate the needs of the Navy for the
construction and operation of a facility to serve as the Naval
Intelligence Command Headquarters authorized by section
201.

828. AIR FORCE PLANT AT COLUMBUS, OHIO

IN GENERAL.—The Secretary of the Air Force may sell or lease,
ue a permit to another agency within the Department of
se for use of, all or any portion of Air Force Plant No. 85
d in Columbus, Ohio. Any such action shall be carried out in
dance with applicable law except to the extent that such law is
sistent with this section.

AUTHORITY OF SECRETARY.—(1) The Secretary shall provide
each deed entered into for the transfer of such property shall
in a covenant warranting that all remedial action necessary to
ct human health and the environment with respect to any
onmental contamination at the plant at the time of the sale,
ding any remedial action found to be necessary with respect to
contamination after the date of such transfer, has been or will
ducted by the United States. Such covenant shall be in lieu of
her covenant or other action required by any applicable law
respect to environmental restoration to be taken by the Fed-
government at the plant before such transfer.

In any case in which the Secretary provides a permit to
er agency within the Department of Defense to use any por-
f the plant, the Secretary may provide for the environmental
ation of such portion by such other agency with funds
able to the Department of the Air Force for environmental
ation.

To the extent that the Secretary decides to take remedial
a with respect to environmental contamination in any portion
e plant before the sale or lease of such portion, the Secretary
use funds provided by the purchaser or lessor for such purpose.

DEDUCTION OF EXPENSE FROM PROCEEDS OF SALE OR LEASE.—
Secretary may use the proceeds of any sale or lease of the

Contracts.
Safety.
Environmental
protection.

property described in subsection (a) to credit the accounts from which funds were expended by the Secretary for reasonable and necessary expenses, other than for environmental restoration incurred in connection with the sale or lease. The Secretary may also use the proceeds of such sale or lease directly for the purpose of environmental restoration at the plant. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) **ADDITIONAL TERMS.**—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) **AUTHORITY TO SELL.**—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 32 acres, that comprises a portion of Fort Jackson, South Carolina, and is excess to the needs of the Army.

(b) **COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.**—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than the fair market value of the land, as determined by the Secretary.

(c) **USE OF PROCEEDS OF SALE.**—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the rehabilitation of military family housing at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) **LEGAL DESCRIPTION OF LANDS.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4481:

HOUSE REPORTS: No. 101-735, Pt. 1 (Comm. on Armed Services); Pt. 2 (Comm. on Government Operations); Pt. 3 (Comm. on Merchant Marine and Fisheries); and Pt. 4 (Comm. on Rules), and No. 100-989 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 7, 12, considered and passed House.

Sept. 15, considered and passed Senate, amended.

Sept. 28, House and Senate agreed to conference report.

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